

APPEAR IN QUINTUPPLICATE.  
THE STATE AGENCY AND THE CONTRACTOR AS LISTED BELOW HEREBY ENTER INTO A CONTRACT AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE.  
ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS STATED ON THE REVERSE SIDE OF PART 1.

		(1) ORIGINAL <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/>		(2) IDENTIFICATION NO. P.S. 1246-6100	
CONTRACTOR		(3) CONTRACTOR NAME Craig J. Lubitski Consulting, LLC		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
		CONTRACTOR ADDRESS 290 Roberts Street, Suite 303, East Hartford, CT 06108		CONTRACTOR FEIN/SSN 061591019	
STATE AGENCY		(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106			
		(6) AGENCY NO. 6100			
CONTRACT PERIOD		(7) DATE (FROM) 7/1/2001	THROUGH (TO) 6/30/2006	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD NO. <input type="checkbox"/> NEITHER <input checked="" type="checkbox"/>	
ANCELLATION CLAUSE		(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 days			

COMPLETE DESCRIPTION OF SERVICE	(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)	
	assist the Department of Social Services perform its rate setting activities by conducting desk reviews and field audits per year as described in the Part Three Scope of Work beginning on page 18.	

COST AND SCHEDULE OF PAYMENT	(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.	
	Payment for this contract shall be on a hourly fee-for-service basis as described in Part Four beginning on page 30, of this contract with a total cost not to exceed \$14,267,815 for the duration of the contract through 6/30/2006.	

CT CD	(1) PS	(14) COM TYP	(15) LSE. TYP.	(16) ORIG. AGCY 6100	(17) DOCUMENT NO. 12466100	(18) COMMIT AGCY 6100	(19) COMMIT. NO. 12466100	(20) VENDOR FEIN/SSN - SUFFIX 06-1591019 -01	
OMMITTED AMOUNT \$ 2.00		(22) OBLIGATED AMOUNT \$14,267,815		(23) CONTRACT PERIOD (FROM/TO) 7/1/2001 - 6/30/2006					
CT CD	(25) COMM. LINE NO.	(26) COMMITTED AMOUNT	(27) COMM AGCY.	(28) COST CENTER FUND SID		(29) OBJECTIVE	(30) AGENCY TAIL FUNCTION ACTIVITY EXTENSION		(33) FY
A	1	\$ 1.00	6100	0	002	02230	3111	0	02
A	2	\$ 1.00	6100	0	002	02230	3112	0	02

Individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		STATUTORY AUTHORITY C.G.S. 17b-244, 17b-340, 4-8, 17b-3	
CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 		TITLE Member	
AGENCY (AUTHORIZED OFFICIAL) 		DATE 6/24/01	
OFFICE OF POLICY & MGMT. DEPT. OF ADMIN. SERV. 		TITLE Deputy Commissioner	
ATTORNEY GENERAL (APPROVED AS TO FORM) 		DATE 7/25/01	

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## **PART 2**

### **MANDATORY TERMS AND CONDITIONS**

#### **Section 1 General Contract Provisions**

##### **1.1. CONTRACTUAL AGREEMENTS**

The terms and conditions contained in this section constitute a basis for and are mandatory for this contract. The Department is solely responsible for rendering decisions in matters of interpretation on all terms and conditions.

##### **1.2 CONTRACT TERM**

This contract will be from July 1, 2001 through June 30, 2006. The Department shall have the option to extend this agreement for a maximum of two one-year periods by sending the Contractor a written notice to this effect not less than ninety (90) days prior to the expiration of the contract.

##### **1.3 AUTHORIZATION AND CONTINUATION**

The making and performance of the Agreement by the State of Connecticut are subject to the appropriation and allocation of funds sufficient to discharge the Department's payment obligations under the Agreement, and to the approvals of state officials as required by statute, regulation or administrative order.

The continuation of the Agreement in fiscal years following the fiscal year in which the Agreement is made is subject to the appropriation and allocation of funds sufficient to discharge the payment obligations of the State which accrue in such subsequent fiscal years. In the absence of such appropriation and allocation, the agreement shall be terminated without Department liability for damages, penalties or other charges.

The Department agrees to make all reasonable efforts to obtain funding and all necessary approvals, and to notify the contractor promptly when they have been obtained or when it appears certain that they will not be obtained. Should funds sufficient for a clearly distinct task or tasks be made available, the parties may agree to perform their respective obligations relative to such tasks, and the Agreement shall be amended accordingly.

The continuation of the Agreement is also subject to any significant changes, as determined by the Department, which result in a significant change in the nature or level of services required to calculate the rates that form the basis of this contract. A change in the nature or level of services required, includes but is not limited to, a change in State or Federal Statutes or regulations that requires the imposition of a form of reimbursement different from the cost-related reimbursement system currently utilized. Should such a significant change occur, the Department shall notify the contractor in writing and the Department may either terminate the contract in accordance with paragraph titled "Termination" in the best interests of the State; or the Department may seek to amend the contract upon mutually agreed upon terms varying the tasks to be performed and the price of performing those tasks consistent with the changed circumstances.

##### **1.4 CONTRACT SUSPENSION**

If, at any time during the term of the contract, the Director of the Office of CON and Rate Setting determines that the best interest of the State would be served by temporarily suspending all rate calculation activity or desk reviews, or any part thereof, he shall do so by providing the contractor with a written notice to that effect. The Contractor shall, immediately upon receipt of such notice, cease all affected operations for the period specified in such notice. The Department shall not unreasonably invoke the notice.

The intent of this clause is to provide the State with a right to suspend processing in the event that a significant deficiency is discovered and to hold all processing in suspense pending a satisfactory cure to any such deficiency.

##### **1.5 CONTRACT REVISIONS/ AMENDMENTS**

Revisions to the contract's objectives, services or plan including revisions to due dates for reports and completion of objectives or services, must be approved in writing by the Department. A formal contract amendment shall be required for: extensions to the final date of the contract period, revisions to the contract fees, and any other contract revisions determined material by the Department.

The Department reserves the right to renegotiate the contractor's scope of work and budget at anytime during the term of this contract based on the contractor's performance and actual expenses to date. A formal contract amendment, in writing, shall not be effective until executed by both parties to the contract, and where applicable, the Attorney General.

No amendment may be made to a lapsed contract.

#### **1.6 ASSIGNMENT**

The contractor shall not assign or transfer any interest in this contract without the prior written approval of the contract Administrator. This shall not be construed as limiting the contractor's rights to subcontract some of the services to be performed hereunder as provided in this contract.

#### **1.7 SUBCONTRACTING**

None of the services to be provided by the contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals or other such entity without the prior written consent of the Department. Said subcontract shall contain the access to the books, document and records, provided for in paragraph 2.2 and 2.3 infra. No subcontract or delegation shall relieve or discharge the contractor from any obligation, provision or liability thereunder.

The contractor agrees to make a good faith effort to award a reasonable proportion of subcontracts to small and minority businesses in accordance with Conn. Gen. Stat. Section 4a-60.

#### **1.8 LIAISON**

Both parties agree to have specifically named liaisons at all times. These representatives of the parties will be the first contacts regarding any questions and problems that arise during implementation and operation of the contract.

#### **1.9 NOTICES**

Wherever under this contract one party is required to give notice to the other, such notice shall be deemed given upon delivery, if delivered by hand (in which case assigned receipt will be obtained), or three (3) days after posting if sent by registered or certified mail, return receipt requested. Notices shall be addressed as follows:

Notices and payments to the contractor shall be directed to:

Craig J. Lubitski  
Craig J. Lubitski Consulting L.L.C.  
290 Roberts Street, Suite 303  
East Hartford, CT 06108

Notices to the Department for performance issues shall be directed to:

Gary Richter  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106

Notices to the Department regarding contractual issues shall be directed to:

Lee Vander Baan  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106

Said notices shall become effective on the date of receipt or the date specified in the notice, whichever comes later. Either party may change its address for notification purposes by mailing a notice stating the change and setting forth the new address, which shall be effective on the tenth (10th) day following receipt.

#### **1.10 LOCATION OF CONTRACTOR FACILITIES**

Due to the nature of this contract and the need for close liaison and coordination with the department's personnel and others, the contractor shall maintain as its major work site for the performance of the duties required under this contract, an office in Connecticut within thirty minutes driving distance from Hartford, Connecticut. The office and processing facility may be one and the same.



#### **1.11 QUALIFICATIONS TO CONDUCT BUSINESS**

The contractor shall within sixty days from the effective date of the contract provide written assurance to the Department from its legal counsel that the contractor is qualified to conduct business in Connecticut, and is not prohibited by its articles of incorporation, bylaws, or the law under which it is incorporated or, if a partnership, by the partnership agreement from performing the services required under this contract.

#### **1.12 OTHER BUSINESS INTERESTS**

The contractor shall not enter into any business dealings during the term of this contract with any facilities whose rates will be established and/or desk reviewed pursuant to this contract. The contractor also shall not represent any facility after the termination of the contract concerning any rates established or desk reviewed during the period of the contract.

#### **1.13 REPORTING**

The contractor may be required to file progress reports on a monthly basis in a form and manner to be determined by the Department. In addition, upon contract completion or termination, the contractor may be asked to submit a final report that summarizes and evaluates the activities of the entire project to date.

The Contractor will at the request of the Department provide a formal progress review.

#### **1.14 DELINQUENT REPORTS**

The Department reserves the right to withhold payment for the contract if the Department has not received on a timely basis, acceptable progress reports, expenditure reports, refunds, audits and/or other information as required for any and all contracts the contractor has entered into with the Department.

#### **1.15 MAINTENANCE OF SEPARATE ACCOUNTING SYSTEM**

The contractor shall maintain accounting records in a manner which will enable the state to easily audit and examine any books, documents, papers and records maintained in support of the contract. All such documents shall be made available to the Department at its request, and shall be clearly identifiable as pertaining to the contract.

#### **1.16 EXAMINATION OF RECORDS**

The Department and its representatives, (including HHS, HCFA, and the Comptroller General of the United States and their duly authorized representatives) during the term of this contract and for a period of three (3) years after final payment for the services performed under this contract or any extension and all pending matters are closed shall have the right to enter into the contractor's premises, or such other places where duties under the contract are being performed to inspect, monitor, evaluate (include system testing) the work being performed and related documents. This provision also applies to the books, records, including but not limited to financial records, documents and papers of any parent, affiliated or subsidiary organization of contractor or any subcontractor approved by the Department pursuant this contract performing under formal or informal arrangement any service or furnishing any supplies or equipment to the contract involving transactions related to this contract. Any contract with an approved subcontract must contain a provision specifically authorizing access in accordance with the terms set forth in this paragraph. The contractor and all sub-contractors shall provide reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. In addition, the contractor shall develop and maintain all records and documents in a manner consistent with or equivalent to the standards of the American Institute of Certified Accountants.

If an audit, litigation, or other action involving the records is started before the end of the three year period, the records must be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later. The contractor further agrees that this provision shall be inserted in each subcontract.

#### **1.17 USE AND DELIVERY OF FILES**

Throughout the course of the contract, the Department shall have the right to obtain copies of any pertinent file or files in the possession of the contractor. Upon written or verbal request, the contractor will deliver to the Contract Officer said file or files within five working days. The Contractor's compensation shall not exceed the contractor's all inclusive hourly rate.

Failure by the Contractor to comply with any such order shall result in the imposition of a credit against any amounts due or to become due to the Contractor of not more than \$500.00 per day for each work day beyond the five (5) day required response time. Since the value of any particular file or files to the State will vary depending upon the urgency or criticality of need, the particular amount of the credit up to the limit set forth above shall be set by the Contract Officer and included in the original order.

Any such credit that may become due shall be taken from the next payment processed for the Contractor's operational reimbursement and as such will be considered as a rate reduction for unsatisfactory performance. The imposition of, or the failure to impose, any such credit shall not relieve the obligation of the Contractor to deliver, at its expense, the requested materials. This rate reduction is not intended and shall not be construed as the State's sole remedy for nonperformance and the Department may also invoke any other remedy the Department may have.

## **Section 2                      Ownership**

### **2.1                      OWNERSHIP**

All products and materials developed as a result of this contract by the contractor, or any of its subcontractors hired for the purposes of this contract shall remain the property of the Department. Products and materials are defined as, but not limited to, copyrighted materials; camera ready copy; mechanical equipment; videos; brochures; posters and stock thereof; designs; data; and all other matter and information that is collected or developed for the purpose of this contract.

Disposition of all products and materials shall remain at the discretion of the Department during the effective period of this contract and thereafter.

### **2.2                      CREDIT AND RIGHTS IN DATA**

2.2.1        The contractor may not publish or copyright any data without prior approval, unless otherwise stated herein. The Department and the Federal Government shall have the right to publish, duplicate, use and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

2.2.2        "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including, but not limited to, all reports, surveys, plans, charts, recordings (video and/or sound), pictures, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.

### **2.3                      INSPECTION OF WORK PERFORMED**

The Department or its authorized representative shall at all reasonable times have the right to enter into contractor's premises, or such other places where duties under the contract are being performed, to inspect, monitor or otherwise evaluate (including periodic systems testing) the work being performed. The contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. In addition, contractor agrees to develop and maintain all records and documents in a manner consistent with or equivalent to the standards of the American Institute of Certified Public Accountants.

### **2.4                      CONFIDENTIALITY**

All material and information provided to the contractor by the State or acquired by the contractor in performance of the contract whether verbal, written, recorded magnetic media, cards or otherwise shall be regarded as confidential information and all necessary steps shall be taken by the contractor to safeguard the confidentiality of such material or information in conformance with federal and state statutes and regulations. The contractor agrees that it is prohibited from releasing any and all information provided by the Department or providers or any information generated by the contractor without the prior express written consent of the Contract Administrator.

### **2.5                      RIGHT TO PUBLISH**

All materials developed during the term of this contract are considered proprietary to the Department and shall remain confidential.

Throughout the term of the contract, the contractor must secure the Department's written approval prior to the release of any information whatsoever that pertains to work or activities covered by the contract.



**Section 3 Liabilities and Indemnification**

**3.1 HOLD HARMLESS**

The contractor agrees to indemnify, defend and hold harmless the State of Connecticut; and all Departments, officers, agents and employees of the State from and against any and all claims, losses or suits arising from the Contractor's failure, including, but not limited to, overpayments made to providers which cannot be recouped by the Department in the ordinary course and any and all claims, losses or suits arising from any contractors, subcontractors, laborers and any person, firm or corporation who may be directly or indirectly injured or damaged by the contractor in the performance of the contract.

**3.2 WORKERS' COMPENSATION**

The Department may request, in writing, a copy of the contractor's workers' compensation insurance policy. If such a request is made, contractor must file a copy of its workers compensation insurance policy with the Department's contract Administrator, no later than fifteen (15) business days following receipt of the written request.

**3.3 PATENT INFRINGEMENT**

The contractor at his own expense must defend any and all claims or suits that may be brought against the Department or the State for the infringement of any patents, copyrights, proprietary rights or right of privacy arising from the contractor's or State's use of any equipment, materials or information prepared or developed in conjunction with the performance of the contract. The contractor shall, in any such suit, satisfy any and all damages directly or indirectly assessed against the State or its departments, be it resolved by settlement, final judgment, consent decree or any other manner.

**3.4 AUDIT LIABILITIES**

In addition to and not in any way in limitation of the obligation of the contract, it is understood and agreed by the contractor that the contractor shall be held liable for any State of Federal audit exceptions and shall return to the Department all payments made under the contract to which exception has been taken or which have been disallowed because of such an exception in accordance with Connecticut General Statutes 7-396a.

**3.5 MOST FAVORED CUSTOMER**

The contractor agrees that if during the term hereof the contractor shall enter into any contract with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent equipment or services at lower prices, or additional services at comparable prices, the contractor shall so notify the Department and the contract shall, at the Department's option, be amended to accord equivalent advantage to the Department.

**3.6 LITIGATION**

The contractor agrees to provide written notice to the Department of any litigation that relates to the services directly or indirectly financed under this contract or that has the potential to impair the ability of the contractor to fulfill the terms and conditions of the contract, including, but not limited to financial, legal or any other situation that may prevent the contractor from meeting its obligations under the contract.

**3.7 WARRANTY OF WORK**

The contractor warrants all delivered program modifications, documentation, reports, procedures and other items/services as properly functioning and compliant with the terms of the contract. Contractor liability with respect to warranty shall include correction of errors/omissions and design deficiencies throughout the system and replacement of incorrect or defective documentation and data within three weeks of notification by the Contract Officer of such deficiencies, or such longer period as may be necessary using all diligence and dispatch as agreed between the Contracting Officer and the contractor. If the contractor fails to repair an identified error, deficiency or defect within such period, the State may, at its option, act to repair and the Contractor will be required to reimburse the State for all costs incurred.

**3.8 DUE DILIGENCE**

The Department shall make all policy decisions and the Contractor shall carry out with due diligence any such decision communicated to the Contractor. In the event that the Contractor may request in writing that the Department answer questions posed by the Contractor required for proper performance of the contract, the

Department shall do so in writing in a timely manner. The Contractor shall be entitled to rely upon and act in accordance with such responses and shall incur no liability in doing so unless the Contractor acts negligently, maliciously, fraudulently or in bad faith.

## **Section 4 Interpretations and Disputes**

### **4.1 SETTLEMENT OF DISPUTES**

Any dispute concerning a question of fact arising under the Contract which is not disposed of by agreement shall be decided by the Contract Administrator whose decision shall be final and conclusive subject only to whatever rights, if any, the Contractor may have in a court of law including the office of the Claim's Commissioner for the State of Connecticut. In connection with any appeal to the contract Administrator under this paragraph, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute, the contractor shall proceed diligently with the performance of the contract in accordance with the contract Administrator's decision.

### **4.2 CHOICE OF LAW AND CHOICE OF FORUM**

The contractor agrees to be bound by the laws of the State of Connecticut and that this contract shall be constructed and interpreted in accordance with Connecticut law in the event a choice of law situation arises.

### **4.3 SEVERABILITY**

If any provision of this contract is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of this contract shall be enforced to the fullest extent permitted by law.

### **4.4 WAIVERS**

No covenant, condition, duty, obligation or undertaking contained in or made a part of this contract shall be waived, except as specifically provided in any section of this contract or by the written agreement of the parties. Forbearance or indulgence in any form or manner by the Department in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation or undertaking to be kept, performed, or discharged by the contractor. Notwithstanding any such forbearance or indulgence, until complete performance or satisfaction of all such covenant, conditions, duties, obligations and undertakings, the Department shall have the right to invoke any remedy available under the contract, or under law or equity.

## **Section 5 Personnel**

### **5.1 INDEPENDENT CAPACITY OF CONTRACTOR**

The contractor including its officers, employees, subcontractors, or any other agent of the contractor is acting as an independent contractor in performance of this contract. The contractor does not have, nor shall contractor hold themselves out as having, any right, power or authority to create any contract or obligation either express or implied, on behalf, in the name of, or binding upon the State of Connecticut or of the Department. The contractor shall be solely responsible and liable for contractor's employees and their acts.

### **5.2 KEY PERSONS**

The contractor certifies that all key personnel named in their scope of work shall actually work on the contract in the manner described in their proposal. No changes, substitution, additions or deletions shall be made unless approved in advance by the Contract Administrator. In addition, these individuals shall continue for the duration of the contract, except in the event of resignation or death. In such event, the substitute personnel shall be approved by the Contract Administrator. Substitutions shall be made within thirty (30) days of the resignation, incapacity or death of a key person.

During the course of the contract, the Department reserves the right to approve or disapprove the contractor's and any subcontractor's key staff assigned to this contract, to approve or disapprove any proposed changes in key staff, or to require the removal or reassignment of any contractor employee or subcontractor employee found unacceptable by the Department.

Any employee of the contractor, who, in the opinion of the Department is uncooperative, inept, incompetent, or otherwise unacceptable, shall be removed from this contract. In the event that an employee is removed pursuant to the Department's written request from the contract Administrator, the contractor shall have thirty (30) days in which to fill the vacancy with an acceptable employee. Replacement of any personnel, including those

who have terminated employment, shall be with key personnel of equal ability and qualifications as approved by the Department. The contractor shall, upon request, provide the Department with a resume for any member of its staff or of a subcontractor's staff assigned to or proposed to be assigned to any aspect of the performance of this contract.

Failure to abide by the conditions as stated in this Key Personnel section will cause the imposition of reduction in rates of payment immediately upon receipt of notice by the Contractor, in an amount set by the Contract officer, which amount will not exceed \$5,000.00 for each offense. Any such credit which may become due shall be taken from the next payment processed for the Contractor's operational reimbursement and as such will be considered as a rate reduction for unsatisfactory performance. The imposition of any such credit shall not relieve the obligation of the Contractor to comply with the requirements of this paragraph and is not intended and shall not be construed as the State's sole remedy for nonperformance which it is agreed includes but is not limited to specific performance, replacement at the Contractor's expense and or damages.

### **5.3 ADDITIONAL CONTRACTOR ASSISTANCE**

The Contractor shall assist the Department from during and beyond the contract term to insure that all statutory and regulatory requirements of the Department are met. Therefore, the Contractor agrees as follows:

**5.3.1 Key Personnel:** The key personnel referred to and as proposed by the bidder may develop unique knowledge and experience with the audits of long-term care facilities and unique experiences with the operations performed by the Contractor on behalf of the Department. It is agreed that these key personnel will be made available to the Department to assist in any aspect in any conversion, if any, becomes necessary at the end of the term of this Contract, from the Contractor to its successor. If the Contractor wishes to propose a substitute, it must demonstrate to the satisfaction of the Department that the person has equal ability, qualifications and familiarity with the operations performed by the Contractor on behalf of the Department so that the substitution will not hamper the transition. The Department will be the sole and ultimate arbiter of whether the substitution is satisfactory.

**5.3.2 Appearances of Personnel to Assist with Litigation:** The Department may require the presence of the key personnel from time to time at administrative hearings within the Department or at arbitration hearings or at hearings before various courts. After the term of this contract, regarding work performed by the Contractor during this contract it is agreed that the listed key personnel shall be made available to the Department for as many hours as the Department, at its option, chooses to utilize the said personnel. In the event that said proceedings require the presence of someone other than the key personnel who is or was at the time the work in question was performed, an employee of the Contractor, it is agreed that the Contractor shall make available any required individual who is a current employee. The Contractor also agrees to use its best efforts to locate any former employee whose presence is required and assist the department in making arrangements to have said individual appear.

Compensation for any additional contractor assistance shall be made at the hourly rate in effect for the last contract period prior to termination.

### **5.4 UTILIZATION OF MINORITY BUSINESS ENTERPRISES**

The government of the State of Connecticut and the Department believe that minority business enterprises should have the maximum opportunity to participate in the performance of government contracts. The contractor agrees to use its' best efforts consistent with Section 45 CFR 74.161 and paragraph 9 of Appendix G thereto as well as Connecticut Public Act 84-412, and section 4a-60 of the Connecticut General Statutes to carry out this policy in the award of any subcontracts which may be permitted.

### **5.5 UTILIZATION OF HANDICAPPED WORKERS**

The contractor certifies that it will not discriminate against any employee or applicant for employment because of a physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship.

## **5.6 AMERICANS WITH DISABILITIES ACT OF 1990**

The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to Section 504 of the Federal Rehabilitation Act of 1973, regarding access to program and facilities by handicapped individuals.

## **5.7 NONSEGREGATED FACILITIES**

The contractor certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments; and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As contractor, the organization agrees that a breach of this certification is a violation of Equal Opportunity in Federal Employment. In addition, contractor must comply with the Federal Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the United States Department of Labor Regulations (41 CFR Part 30). As used in this certification, the term "segregated facilities" includes any waiting rooms, restaurants and other eating areas, parking lots, drinking fountain, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, color, religion, or national origin, because of habit, local custom, national origin or otherwise. The organization further agrees, (except where he has obtained identical certifications from proposed subcontractors for specific time periods) that it will obtain identical certifications from proposed subcontractors which are not exempt from the provisions for Equal Employment Opportunity; that it will retain such certifications in its files; and that it will forward a copy of this clause to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

## **5.8 PROVISIONS REQUIRED PURSUANT TO P.A. 91-58 SECTION 16(B) AND P.A. 91-407 SECTION 8**

### **5.8.1 The contractor agrees and warrants:**

- 5.8.1.1 that in performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - 5.8.1.2 to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - 5.8.1.3 to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to Section 46a-56 of the general statutes;
  - 5.8.1.4 to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.
- 5.8.2. The contractor shall include the provisions of section (5.8.1) in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or order of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.



#### **5.9. EMPLOYMENT/ AFFIRMATIVE ACTION CLAUSE**

The contractor agrees to supply employment/affirmative action information as required for agency compliance with Titles VI and VII of the Civil Rights Acts of 1964 and Connecticut General Statutes, Section 46a-68 and Section 46a-71.

#### **5.10 PRIORITY HIRING**

The contractor agrees, subject to its exclusive right to determine the qualifications for all employment positions, it shall use its best efforts to ensure that it gives priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The contractor and the Department shall cooperatively determine the number and types of positions to which this paragraph shall apply. The Department shall counsel and screen an adequate number of appropriate candidates for positions targeted by the contractor as suitable for individuals receiving benefits under the time-limited welfare program.

#### **5.11 SMOKING POLICY**

If the contractor is an employer subject to the provisions of Section 31-40q of the Connecticut General Statutes, the contractor agrees to provide the Department with a copy of its written rules concerning smoking. The rules or a statement that the contractor is not subject to the provisions of Section 31-40q of the Connecticut General Statutes must be received prior to contract approval by the Department.

#### **5.12 EXECUTIVE ORDERS NUMBERS 3 AND 17**

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination until the contract is completed or terminated prior to completion. The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the contractor will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

This contract is also subject to provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

#### **5.13 EXECUTIVE ORDER NUMBER 16**

This contract is subject to Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 and, as such, this contract may be canceled, terminated or suspended by the State for violation of or noncompliance with said Executive Order No. 16. The parties to this contract, as part of the consideration hereof, agree that:

- (a) The contractor shall prohibit employees from bringing into the state work site, excepts as may be required as a condition of employment, any weapon or dangerous instrument as defined in (b):
- (b) Weapon means any firearm, including BB gun, whether loaded or unloaded, any knife (excluding small pen knife or pocket knife), including a switchblade or other knife having an automatic spring release device, stiletto, any police baton or nightstick or any martial arts weapon or electronic weapon.

Dangerous instrument means any instrument, article, or substance that, under the circumstances, is capable of causing death or serious physical injury.

- (c) The contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threaten to cause, physical injury or death to any individual in the state work site.
- (d) The contractor shall adopt the above prohibitions as work rules, violations of which shall subject the employee to disciplinary action up to and including discharge. The contractor shall insure that all employees are aware of such work rules.
- (e) The contractor agrees that any subcontract it enters into in furtherance of the work to be performed hereunder shall contain the provisions (a) through(d).

## **Section 6 Payments**

### **6.1 APPROVAL**

The Department and the State of Connecticut assume no liability for payment under the terms of any agreement or contract until contractor is notified, in writing, that the contract has been approved by the Office of Policy and Management, and/or by the Attorney General of the State of Connecticut as appropriate.

### **6.2 PAYMENTS**

The Department will pay the contractor based upon monthly invoices for actual hours worked.

The contractor shall submit invoices for actual hours worked and a certification statement signed by an official of the Contractor with legal authority to bind said Contractor that the hours billed represent actual hours worked as supported by time and attendance records maintained by the company. The Department reserves its right to examine the above records at any time during normal working hours.

The all-inclusive hourly rates will be the only vehicles by which payments will be made by the State and is intended to cover all costs associated with the performance of the contract. Total compensation for the performance of all duties and responsibilities under this Contract shall be the authorized hours times the all-inclusive rate. Payment of the maximum referenced above does not excuse the Contractor from his obligation to complete all of the duties and responsibilities specified in this contract.

The Department shall remit all payments within thirty (30) days after receipt of the Contractor's invoice. Payments not received within 30 days after receipt of Contractor's invoice will be subject to a monthly interest charge of 1% of the total due under the invoice. Such interest charge shall be itemized on and payable with the next month's invoice.

### **6.3 FEDERAL OR STATE FUNDS AVAILABILITY**

The Department assumes no liability for payment under the terms of this contract until and unless the Federal or State funds for this contract are authorized and made available.

### **6.4 CLAIM NOTIFICATION**

- 6.4.1 The Contractor shall provide written claim notice to the Department within 30 days of any unforeseen event the Contractor believes constitutes a basis for an adjustment to any element of the price. An unforeseeable event may include without limitation State action or inaction and written or oral communication from any State officer that affects the work performed under this contract or the time for the Contractor's performance, or both. The Contractor's claim notice shall containing the information specified below based on the most accurate information then available to the Contractor:

6.4.1.1 The date, nature, and circumstances of the event.

6.4.1.2 The names, function', and activity of each individual, Contractor, subcontractor, state official, or employee involved in or knowledgeable about said event.

6.4.1.3 The identification of any documents and the substance of any oral communications involved in such event.

6.4.1.4 The reason why the Contractor believes that the event justifies an adjustment to price or performance schedule elements of the Contract.

6.4.1.5 The particular elements of the price or performance schedule portions of the contract the Contractor believes should be adjusted.

6.4.1.6 The Contractor's best estimate as to the extent to which each such price and performance schedule element of the contract should be adjusted.



- 6.4.1.7 The Contractor's requirement as to the date which the State must respond to the Contractor's notice in order to minimize the costs, delay, or disruption of performance.
- 6.4.1.8 Following submission of the required notice, the Contractor shall diligently continue performance of the contract to the maximum extent possible.
- 6.4.2 The Department shall respond in writing as promptly as possible under all the circumstances. The response shall:
  - 6.4.2.1 Confirm that the event as to which the Contractor gave notice constitutes a basis for an adjustment to the contract price or performance schedule or both, and where necessary, direct the manner of further performance. (In this instance the Department shall issue a written change notice and the parties shall proceed in accordance with the terms of same) or
  - 6.4.2.2 Countermand any action or communication earlier given relating to the event as to which the Contractor gave notice, or
  - 6.4.2.3 Deny that the event as to which the Contractor gave notice constitutes a basis for adjustment to the price or performance schedule of the contract, and, where necessary, direct the manner of further performance. (the Department shall issue a final decision to this effect and the Contractor may proceed in accordance with the clause entitled Disputes). or
  - 6.4.2.4 Advise the Contractor as to what additional information is required and establish the date by which said information should be furnished and the date thereafter by which the Department will attempt to respond if the information in the Contractor's notice is inadequate to permit a decision to be made under the above.
- 6.4.3 If the Contractor fails to submit a notice in the manner and within the time specified above, such failure shall constitute a waiver by, the Contractor of all claims arising out of said event, whether direct or consequential in nature.

## **Section 7 Termination**

### **7.1 OFFER OF GRATUITIES**

The contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from the award of this contract. This contract may be terminated by the Department if it determines that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the contractor, its agent(s) or employee(s).

### **7.2 TERMINATION**

The contract may be terminated by the Department upon thirty (30) days advance written notice delivered to the contractor specifying a date of termination.

The State may terminate this contract for the following termination provisions:

- For Default
- For Convenience
- For Unavailability of Funds
- For Financial Instability

All notices of termination as defined in the subsections below shall be signed by the contract Administrator.

#### **7.2.1 TERMINATION FOR DEFAULT:**

The State may terminate this contract in whole, or in part, whenever the Department determines that the contractor or any subcontract has failed to satisfactorily perform its contracted duties and responsibilities and is unable to cure such failure, within a reasonable period of time as specified in writing by the contract Administrator, taking into consideration the gravity and nature of the default. Such determination shall be referred to herein as "Termination for Default".

Upon determination by the Department that the contractor has failed to satisfactorily perform its contracted duties and responsibilities, the contract Administrator shall notify the contractor of its failure to perform and shall establish a reasonable time period, not to exceed thirty (30) days, in which to cure such failure. If the contractor

is unable to cure the failure within the specified time period, the contract Administrator will notify the contractor that the contract has been terminated for default, in whole or in part. Such notices shall be in writing and delivered to the contractor by certified mail, return receipt requested.

If, after notice of termination for default, it is determined by the Department or a court including the office of the Claim's Commissioner for the State of Connecticut that the contractor was not in default or that the contractor's failure to perform or make progress in performance was due to causes beyond the control and without error or negligence of the contractor or any of its subcontractors, the notice of termination shall be deemed to have been issued as a termination for the convenience of the Department, and the rights and obligations of the parties shall be governed accordingly.

In the event of a termination for default, the contractor shall be paid for those services the contractor has provided to the Department pursuant to this contract.

The rights and remedies of the Department provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law under the contract.

#### **7.2.2 TERMINATION FOR CONVENIENCE**

The Department may terminate performance of work under the contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.

In the event that the Department elects to terminate the contract pursuant to this provision, the contract Administrator shall notify the contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

#### **7.2.3 TERMINATION FOR UNAVAILABILITY OF FUNDS**

It is understood and agreed by the parties hereto that all obligations of the Department, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and/or Federal funds, and in no event shall the Department be liable for any payments hereunder in excess of such available appropriated funds. In the event that the amount of any available or appropriated funds provided by the State and/or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason whatsoever, the Department shall notify the contractor of such reduction of funds available and the Department shall be entitled to reduce its commitment hereunder as it deems necessary.

#### **7.2.4 TERMINATION FOR FINANCIAL INSTABILITY**

In the event that the contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under this contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, the Department may, at its option, immediately terminate this contract. In the event the Department elects to terminate this contract under this provision, it shall do so by the contract Administrator sending notice of termination to the contractor by certified mail, return receipt requested, specifying the date of termination. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the contractor shall immediately so advise the Department. The contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve contractor of its duties under this contract.

#### **7.3 PROCEDURE ON TERMINATION**

Upon delivery by certified mail to the contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the contractor shall:

- 7.3.1 Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- 7.3.2 Terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- 7.3.3 Assign to the Department in the manner and to the extent directed by the contract Administrator all of the right, title, and interest of the contractor under the subcontracts so terminated, in which case the

Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.

7.3.4 Complete the performance of such work as has not been terminated by the Notice of Termination.

7.3.5 Provide the Department all property of the State, all documents, files, data, programs, training material, and all other material prepared to the date of termination. In this event the Department will pay the contractor all reasonable costs incurred by the contractor to the date of termination for any material the Department retains.

#### **7.4 TRANSITION AFTER TERMINATION OR EXPIRATION OF CONTRACT**

In the event that this contract is terminated for any reason the contractor will assist in the orderly transfer of operations described in this contract as required by the department and will assist in the orderly cessation of operations under this contract. The contractual agreement may be amended as necessary to assure transition requirements are met during the term of this contract.

### **Section 8 Performance Sanctions - Consequences of Failure to Perform**

The contractor acknowledges that the Department will have no adequate remedy at law and will likely suffer irreparable harm in the event of a failure by the contractor to perform or provide the services and materials which it has agreed to perform and provide in this agreement (both during and after the term of this contract) and that specific performance and/or injunctive relief will provide the only adequate relief for such failure. The contractor shall have the right to oppose any action seeking specific performance and/or injunctive relief on the basis that the failure to perform arises out of causes beyond the control of the contractor and for causes which the contractor is not at fault for producing either intentionally or unintentionally. Such causes may include, but are not restricted to, acts of God, subsequent legislation by the State or Federal government, fires, floods, epidemics, strikes by other than the Contractor's employees, freight embargoes and unusually severe weather.

In the event that any of the services or materials which are required to be performed or provided as set forth in this agreement are not performed or provided as required by this agreement, the Department may withhold, for a period of thirty (30) days, twenty-five percent of any payments then due the Contractor. If the Contractor performs or provides the required services or materials within said thirty (30) day period, the Department will release the withheld payment. If at the conclusion of the thirty (30) day period, the Contractor has not performed the required services or provided the required materials, the Department shall be entitled to keep the withheld amount and to continue to withhold from each successive billing under the same conditions as herein above described as a rate reduction for such to perform or provide as required by this agreement. The rate reduction provided for above, however, shall not in any way be construed as an adequate remedy for the failure to perform and implementation of this rate reduction provision or the failure to implement it, shall not be construed as anything other than as a means of further encouraging the Contractor to perform. It is not to be construed as the Department's sole remedy nor as an alternative remedy to the specific performance and injunctive relief provisions set forth above.

### **Section 9 Miscellaneous**

#### **9.1 AWARD OF RELATED CONTRACTS**

The Department may undertake or award supplemental contracts for work related to this contract or any portion thereof. The contractor shall be bound to cooperate fully with such other contractors and the Department in all such cases. All subcontractors will be required to abide by this provision as a condition of the contract between the subcontractor and prime contractor.

#### **9.2 ANTI-LOBBYING CLAUSE**

The contractor agrees that no federal appropriated funds have been paid or will be paid, by or on behalf of the contractor or its subcontractors, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

The contractor or its subcontractors shall complete and submit a Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions if any funds other than federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement.

### **9.3 UNLAWFUL BOYCOTT**

The contractor warrants, represents and agrees that during the time this contract is in effect, neither it nor any affiliated company participates in or cooperates with an international boycott, as defined in 26 U.S.C. section 999(b) (3) and (4) of the Internal Revenue Code of 1954, as amended.

### **9.4 INDEPENDENT PRICE DETERMINATION**

By entering into this contract, the contractor certifies, as to its own organization, and in connection with this contract that the costs proposed have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such process with any other organization or with any competitor.

### **9.5 FORCE MAJEURE**

Neither party shall incur liability for any failure to perform its obligations under this contract due to causes beyond its control including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of war, acts of God, acts of federal, state or local government or any agency thereof and judicial action, acts of third parties, and computer or equipment failures other than those caused by the sole negligence of either party.

### **9.6 CHANGE ORDER PROCESS**

9.6.1 The Department may, at any time, with written notice to the contractor, make changes within the general scope of the contract. Such changes may include short-term research projects, data exchange enhancements or other activities required by new or amended Federal or State laws or regulations. The Department may reimburse the contractor for any activities required by new or amended State or Federal laws or regulations not mentioned in the Scope of Work or for any other changes outside the Scope of Work defined in the contract which the Department deems necessary.

9.6.2 The written Change Order issued by the Department shall specify whether the change is to be made on a certain date or placed into effect only after approval of the contractor's fee or cost proposal as described in the following paragraph. No changes in scope are to be conducted except by the express written approval of the Department's Contract Administrator.

9.6.3 As soon as possible after receipt of a written Change Order request, but in no event more than five (5) business days thereafter, the contractor shall provide the Department with a written statement that the change has a cost neutral effect on the Department, or that there is a cost impact, in which case the statement shall include a description of the cost involved in implementing the change.

9.9.4 Significant Change Order work may require authorization from the State of Connecticut Office of Policy and Management in order to amend the contract to allocate additional funds to this project.



## **Part Three SCOPE OF WORK**

### **1.0 OVERVIEW**

The Department establishes payment rates for nursing facilities, residential care homes, ICF/MR facilities, specialized AIDS facilities and group homes for the mentally retarded under federal and state statutes (Section §17b-340, §17b-244 of the Connecticut General Statutes and §17-311-52, §17-313b-5 of the Regulations of State Agencies), and the requirements of the federal Health Care Financing Administration (HCFA). The rates for these services are based upon annual cost reports filed by the facilities and are subject to allowable cost limits and rate setting formulas established in statute and regulations. The allowable cost limits and rate setting methods vary by facility licensure type. The Department owns the cost report data base and rate computation system ("Rate System"), written in Microsoft SQL, 6.5 Power Builder Software 5.0, that is used for rate setting and reporting.

In the specific requirements as identified in 2.0 below, the contractor shall enter data (and accept electronic submissions) for cost report filings in the Department's cost report data base, perform prescribed desk review procedures on reported costs and data to verify and identify allowable costs, calculate rates with supporting detail for the provider, perform field audits, and maintain the rate promulgation system. The contractor shall also compute revised rates due to field audits, cost report corrections and adjustments associated with appeal settlements, Wage Benefit and Staffing Enhancement Program spending reviews, standard and ad hoc reports and special cost analyses.

### **2.0 TASKS**

#### **2.1 Cost Report Data Entry and Desk Review**

##### **2.1.1 Cost Report Updates**

The contractor shall

##### **2.1.1.1. Annual Report Updates**

Update the Annual Report of Long Term Care Facility ("Cost Report") each October 31 in paper and electronic form. This update shall reflect date and other revisions specified by the Department.

##### **2.1.1.2. Cost Report Format**

Provide the Cost Report in electronic form as determined by the Department including the number of diskettes requested by the Department for facility filings and availability on the Contractor's internet site.

## **2.1.2 Cost Report Data Entry and Electronic Filings-**

The contractor shall

### **2.1.2.1. Rate System**

Enter Cost Report and Consolidated Operating Report (COR) data into the Rate System including manually entering data from hard copy (paper) and transferring electronic Cost Report data into the Rate System.

### **2.1.2.2. Format Comparison**

Compare hard copy and electronic submissions and revise Rate System data to reflect the hard copy information when paper and electronic submissions from the same facility are inconsistent.

### **2.1.2.3. Data Entry Deadlines**

Enter data for all Cost Report and COR data submitted by December 31 by February 10 of the following year. Enter data for late filings within four weeks of receipt.

### **2.1.2.4. Data Field Updates**

Update all data fields necessary for rate setting as well as the facility administrator, owner and management company input fields in the Rate System.

## **2.1.3 Desk Review**

The contractor shall:

### **2.1.3.1 Review Protocols**

Review each annual Cost Report and COR filings ("Desk Review") in accordance with the Department's Desk Review Protocols for Cost Reports and COR and in accordance with applicable regulatory and statutory provisions.

### **2.1.3.2 Data Verification**

Verify and properly categorize cost and statistical data.

### **2.1.3.3 Order of Reviews**

Review the filings in the order by date in which they are filed unless otherwise directed by the Department.

### **2.1.3.4 Desk Review Coordination**

Coordinate the desk review for all facilities that have the same ownership or are owned in part by the same individual(s) or entities.



#### **2.1.3.5 Prior Review Examination**

Examine the previous year's desk review before commencing with a Desk Review for a particular facility and also review the most recently issued field audit for the facility as needed to ensure that any appropriate adjustments are made in the desk review process.

#### **2.1.3.6 Protocol Revisions**

Propose to the Director of CON and Rate Setting changes, updates and revisions to the Desk Review Protocol by October 15 annually to improve methods of identifying facilities with potentially unallowable costs or costs requiring further documentation or explanation by the facility, review and/or field audit. The contractor shall not implement changes before the Department approves changes to the desk review protocol. The Department shall update the desk review protocol at least annually by November 1. Nevertheless, the Desk Review Protocol must continue to include the following:

- a. The procedures to be followed in reviewing each item of Cost Report and COR
- b. A clear delineation of the parameters of review.
- c. A description of the error correction process.
- d. Documentation requirements for the conduct of Desk Reviews.

#### **2.1.3.7. Requests For Information**

The contractor shall

- a. Request information from facilities in writing when Annual Reports are incomplete, contain errors or costs or statistical information requires explanation.
- b. Request specific information from the facilities in writing by March 31 of each year for Cost Reports and COR received by December 31 of the prior year.
- c. Request information from facilities that file late Cost Report filings before January 31 of any given year by April 15.
- d. Request information from facilities that file Cost Reports and CORs after January 31 within ten (10) weeks of the Contractor's receipt of such filings.
- e. Direct facilities to forward responses to RFI's to the Office of CON and Rate Setting, Department of Social Services within ten (10) business days of receipt.
- f. Notify facilities that any responses to RFI's that include revised pages to an originally filed Cost Report must include a properly

executed Administrator/Owner Certification page (Page 1 of Cost Report).

- g. Reissue RFI's if responses are not received within ten days of the initial mailing.
- h. Provide a listing to the Department on April 15 of each year, and monthly thereafter, of outstanding responses to RFI's.

#### **2.1.4 Desk Review Training**

The contractor shall conduct a one-day/8 hour training session each December for desk review staff. The training shall review the Desk Review Protocol including changes to the protocol and any modifications to rate-setting methods.

#### **2.1.5. Development of Desk Review Protocol for Consolidated Operating Reports**

The contractor shall develop a desk review protocol for Consolidated Operational Reports filed by licensed group homes for the mentally retarded with the Department of Mental Retardation and utilized by the Department in room and board rate setting (Section §17b-244 CGS, Section §17-313b-5 Regs.). The contractor shall submit the protocol to the Department for review and approval by October 15, 2001.

### **2.2 Rate System**

#### **2.2.1 Rate System Operation**

The contractor shall operate and maintain the Department's Rate System during the term of the contract. The Rate System is defined as the system that is functional on June 30, 2001 and as may be updated and modified as approved by the Department. The system is facility address based and menu driven and is designed to produce rate computation reports (RCR's), standard statistical, financial and expense data reports, facility rate histories, or and facility/bed need mapping (MapInfo software). It also contains rate and bed licensure change tracking capabilities and an automated rate tracking and approval component. The Department shall provide the contractor all documentation, files, and programs related to the Rate System.

#### **2.2.2 Rate System Ownership**

The State of Connecticut shall have all ownership rights of the Rate System in any way created, modified, developed or enhanced by the contractor or any of its employees, agents or subcontractors in the performance of this contract.

#### **2.2.3 Rate System Maintenance**

The contractor shall

- 2.2.3.1 Provide the server and all proprietary software for the Rate System.
- 2.2.3.2 Provide all routine system maintenance including passwords for new users, addition of annual Cost Reports and CORs and related data,

restoration of lost data, and conversion of data from facilities, the Department and other state agencies.

- 2.2.3.3. Back up system data daily.
- 2.2.3.4. Provide the Department with a Rate System data tape or CD on the first work day of each week.
- 2.2.3.5. Maintain Cost Report data for cost year 1986 and forward and rate history data from July 1, 1989 and forward.
- 2.2.3.6. Maintain Rate System security with restricted access at various levels. Users shall require a personal ID and password to enter the system. When logged on, pre-assigned access rights shall control access to levels of data and database applications including a "view-only" access level.
- 2.2.3.7. Maintain a router to provide connectivity to the Department and other state agency users.
- 2.2.3.8. Modify, enhance, upgrade and/or expand the System as necessary during the term of this Agreement provided such changes require less than 250 hours per year. The Contractor shall provide an estimate of necessary program hours for proposed system changes within two weeks of notification by the Department. Programming changes in that require an excess of 250 hours per year shall be approved by the Department prior to implementation and added to maximum contract hours by amendment.
- 2.2.3.9. Provide an updated Rate System Data Dictionary and updated industry standard Data System Disaster Recovery Plan to the Department annually on December 31.

#### **2.2.4. System Failure Sanctions**

The Department may impose a financial sanction of \$2,000.00 per day beginning with the first day of continued disrupted connectivity or system operation failure due to failure of the contractor's router or computer systems when the connectivity and/or system operation to DSS is disrupted by more than forty-eight (48) hours.

### **2.3 Rate Computation Reports**

The contractor shall

#### **2.3.1 Basis**

Produce annual rate year rate computation reports (RCR), based upon applicable Cost Report and COR filings, for nursing facilities, ICF-MRs, residential care facilities, special long term care facilities and group homes for the mentally retarded.

### **2.3.2 Format**

Generate RCR's and Wage and Benefit Year-to-Year Comparison (WBYB) report or similar wage/benefit analysis if required in a format approved by the Department. Beginning July 1, 2001, the format shall be the same report format the Department approved for the July 1, 2000 through the June 30, 2001 rate period. Thereafter, new rate year RCR's shall be in the formats approved by the Department, including the Wage and Benefit Year-to-Year Comparison (WBYB) report for nursing facilities.

### **2.3.3 Deadline**

Produce such RCR's by June 20 of each year for facilities with timely Cost Report filings and responsive RFI's submitted by February 15 unless there are legislative or regulatory rate-setting changes or a revised schedule is mutually agreed to by the Contractor and Department

### **2.3.4 Annual Rates List**

Provide a summary listing of annual rates by licensure category indicating the prior and new rate year rates and percent increases. Such listing shall be updated as RCR's are produced and provided to the Department.

### **2.3.5 Revised RCRs**

Produce revised RCR's to implement rate changes for all affected rate periods associated with field audits, interim rate replacements, revised filings by facilities, appeal settlements, special analyzes for fraud and abuse, "what-if" rate analysis, and for other purposes requested by the Department.

### **2.3.6 Priority**

Produce RCR's based on the prioritization determined by the Department and in no event shall a request for a RCR be delayed for more than seventy five days without Department approval.

### **2.3.7 Department Assurances**

The Department shall assure that RCR reflect applicable statutes, regulations and allowable cost policies.

## **2.4 Cost Report and COR Field Audits**

### **2.4.1 Audit Planning**

The contractor shall

- 2.4.1.1 Assist the Department in identifying facilities to be audited and the audit scope to be utilized.
- 2.4.1.2 Prepare a proposed priority listing of approximately 150 field audits to be conducted during the contract year by July 31, 2001, and February 15 annually thereafter. The Department shall review, modify and approve such audit plan within two weeks of submission.



2.4.1.3. Assist the Department's Office of Quality Assurance with the annual review and development of the Field Audit Review Programs and Field Audit Manuals as required by the Department.

2.1.4.4. Develop by December 31, 2001 lap top PC-based audit templates and forms for review and approval by the Department Quality Assurance Division.

#### **2.4.2. Field Audit Performance**

The contractor shall

2.4.2.1. Utilize agreed upon procedures as outlined in the Department's Field Audit Review Programs in conducting approximately 150 audits annually

2.4.2.2. Utilize associated audit reports for rate revisions.

2.4.2.3. Maintain appropriate knowledge of applicable statutes, regulations of Connecticut State policies governing the rate setting based upon Cost Reports and COR's.

2.4.2.4. Retain an adequate number of full-time audit staff, with Cost Report audit experience, to conduct approximately 150 field audits annually.

2.4.2.5. Conduct audits at the main home offices of facilities, as required by the Department, including those facilities with home offices located out of the state of Connecticut.

### **2.5. Reports and Monitoring-**

The contractor shall

#### **2.5.1 Meetings**

Arrange monthly meetings, or less frequently as approved by the Department, with Department Quality Assurance and Rate Setting staff for the sole purpose of discussing and communicating field audit procedures, scheduling, areas of concern with current audits, review field audit reports and audit report approval.

#### **2.5.2 Status Reports**

Provide the Department with a monthly status report of all open (ongoing and pending issuance) and scheduled audits. Such report shall also be available through online access to the Rate System.

#### **2.5.3 Ad-hoc and Audit Impact**

Provide the Department ad-hoc, interim, progress, and Audit Impact reports upon request.

#### **2.5.4. Project Management Reporting**

The Director of the Office of CON and Rate Setting from time to time may request various types of management reports that will facilitate the overall project management. The Director of the Office of CON and Rate Setting shall determine

the length of reporting periods for such reports. The minimum project management reports shall include the following:

#### **2.5.4.1 Progress Reports**

The contractor shall submit written progress reports in letter form that contain the following:

- a. Progress during the past reporting period, including significant accomplishments and/or deliverables reached.
- b. Problems encountered, scheduled tasks not completed, and solutions arrived at or recommended.
- c. Anticipated progress for the next reporting period.
- d. Any actions requested to be taken by the State.
- e. An updated project schedule, reflecting progress to date.

#### **2.5.4.2. Progress Review:**

The Department may, from time to time, request a formal progress review meeting. The Contractor will comply with all such requests. Minutes of such meetings will be the responsibility of the Contractor and will be signed by the Contractor's project manager and a representative of the Department.

### **2.6. Training/Customer Service-**

The contractor shall

#### **2.6.1 Audit Procedure Meetings**

Conduct semi-annual audit procedure update meetings to include Contractor and Department audit staff and management.

#### **2.6.2 Training Seminar**

Conduct at least a one day/eight (8) hour training seminar annually for new and existing Contractor and Department audit staff.

#### **2.6.3 Field Audit Presentation**

Conduct, in collaboration with Department audit managers, an annual presentation on field audits for Cost Report and COR preparers.

#### **2.6.4 Survey**

Provide each audited facility an Audit Feedback Survey at audit completion. The proposed survey shall be presented to the Department for review and approval by July 31, 2001. All completed surveys shall be available for review by the Department.

### **2.7. Automation of Audit and Analytical Reports**

The contractor shall allocate up to 800 hours annually for the generation of special analytical reports to identify facility costs and cost increases/decreases



outside of reasonable ranges.

## **2.8. Other Duties and Responsibilities-**

The contractor shall

### **2.8.1 Appeals**

Assist the Department with administrative appeals pertaining to field audits.

### **2.8.2 Program Review**

Assist the Department in reviewing programs and performing audits for management companies, FQHCs, Wage, Benefit and Staffing Enhancement, major capital projects approved by a Certificate of Need, Community Living Arrangement capitalization reports, and other cost-based rates.

### **2.8.3 Joint Field Audits**

Conduct field audits, as required by the Department, jointly with Department's Quality Assurance staff.

### **2.8.4 CPA Requirement**

Issue all audit reports by a licensed Certified Public Accountant.

### **2.8.5. Accounting, Consulting and Provider Relations**

The contractor shall

- 2.8.5.1 Provide professional accounting and consulting services related to rate setting and auditing.
- 2.8.5.2. Provide special analyses of potential rate setting changes including assessments of the impact of rate setting changes on state costs.
- 2.8.5.3. Assist the Department in responding to requests from facility management, accounting, and legal representatives concerning issued rates.

## **2.9. Key Personnel**

The key personnel referred to below may develop unique knowledge and experience with the States' reimbursement system for long-term care facilities and unique experiences with the operations performed by the Contractor on behalf of the Department.

The contractor shall make key personnel available to the Department to assist in any aspect in any conversion if any becomes necessary at the end of the term of this contract from contractor to a successor contractor. If the contractor wishes to propose a substitute, it must demonstrate to the satisfaction of the Department that the person has equal ability, qualifications and familiarity with the operations performed by the contractor on behalf of the Department so that the substitution will not hamper the transition. The Department will be the sole and ultimate arbiter of whether the substitution is satisfactory.

Craig J. Lubitski as Project Director will preside over the complete operation, authorizing immediate staffing and business decisions, which will impact this engagement. Mr. Lubitski has the ultimate responsibility to ensure our contractual obligations to the State have been fulfilled.

Kathy L. R. Kabrick as Project Support Manager will divide her time between the Field Audit of Long-Term Care and desk review activities. She will monitor and assess the contract utilization and administration staff. Ms. Kabrick will be responsible to foster the interaction between the Department, and Field Audit and Desk Review processes. Ms. Kabrick has the ultimate responsibility to ensure the contract administration and human resources functions are maintained.

Mark J. MacKenn as Project Manager for the Field Audit of Long-Term Care project will be responsible for the daily supervision of the audit process. He will monitor the status and provide necessary assistance with all nursing home audits. Mr. MacKenn has the ultimate responsibility to ensure that all audits have been completed in compliance with the programs provided by the Department.

Key Personnel	Field Audit hours	Desk Review – hours
Craig J. Lubitski	1,100	1,000
Kathy L. R. Kabrick	600	600
Mark J. MacKenn	2000	0

## **2.10. Transition**

The contractor shall take full control and custody of all catalogued or inventoried work papers and documents associated with audits and desk reviews performed by Ernst and Young, LLP excluding billing documents under the predecessor contract PSA 218-6100. Possession and responsibility for control and custody will take place on the exchange of a signed document acknowledging the transfer of custody of catalogued documents or files at the termination of the contract with Ernst and Young, LLP, PSA 218-6100, and with the full agreement by Ernst and Young, LLP.

### **2.10.1 Transition Assistance**

Assist in the transition process of the new vendor as stated in the Department's language of Mandatory Terms and Conditions.

### **2.10.2 Participation in Hearings after Termination and Appearances of Personnel to Assist with Litigation**

Provide Key Personnel for administrative hearings, arbitration hearings or at hearings at various courts regarding the work performed for as many hours as the Department, at its option, chooses to utilize the personnel after the term of this contract. In the event that proceedings require the presence of someone other than the key personnel, who is or was an employee of the contractor at the

time the work in question was performed, the contractor shall make available any required individual who is a current employee. The contractor also shall use its best efforts to locate any former employee whose presence is required and to assist the Department in making arrangements to have said individual appear

Compensation for any additional contractor assistance shall be negotiated between the parties at the time the Department chooses to utilize the contractor's personnel.

### **2.10.3 Rate Calculations and Desk Reviews**

Conclude the calculation of rates as requested by the Department for those facilities whose rate calculations were begun before the expiration of the contract. The conclusion of all rate calculations shall not exceed three months after the termination of the contract. Compensation for the conclusion of rate calculations shall be made at the hourly rate in effect for the last contract period prior to termination.

## **3.0 Department Responsibilities**

The Department shall:

- 3.1 Provide the final interpretation of the regulations affecting cost-based rate setting.
- 3.2 Provide the contractor with updates and changes, which alter the regulations affecting Medicaid reimbursement.
- 3.3 Provide audit guidance to the contractor when intent or fraud is suspected.
- 3.4 Provide assistance when the contractor exhausts all avenues when dealing with an uncooperative provider.

## **Part Four**

### **COST AND INVOICING**

#### **1.0 INVOICE AND PAYMENT PROCESS**

##### **1.1 The Department shall**

- 1.1.1 Pay for actual hours worked, however, the maximum payment for the performance of all duties under this contract shall not exceed the contract amount.
- 1.1.2 Withhold payments until the rate promulgation system and all related system programs are fully functional.
- 1.1.3 Withhold payments for desk review each year until the Department approves the then current Desk Review Protocol submitted by the contractor. The Department shall provide adequate review within seven days of the receipt of the Desk Review Protocol and when the Desk Review Protocol is not acceptable, the Department shall provide the Contractor an additional fifteen days to correct the Desk Review Protocol.
- 1.1.4 Reserve its right to examine the above records at any time during normal working hours.
- 1.1.5 Reimburse the contractor for actual connectivity costs not to exceed \$5,000 related to any state decision to relocate the current data center.

##### **1.2. The contractor shall:**

- 1.2.1. Establish a fully functional rate promulgation system and all related system programs before submitting invoices for actual time worked.
- 1.2.2. Submit monthly invoices to the Department for actual hours worked.
- 1.2.3 Submit with the invoices certification statements signed by an official of the contractor with legal authority to bind the contractor that the hours billed represent actual hours worked as supported by time and attendance records maintained by the contractor.
- 1.2.4 Separate all invoices for Title XIX participating and nonparticipating facilities.
- 1.2.5 Maintain time and attendance records in a manner consistent with the billing requirements stated herein.

#### **2.0 PAYMENT RATES**

The Department will pay the contractor all-inclusive hourly rates based on the actual number of hours worked according to the following schedule and actual connectivity costs incurred:



	Desk Review (16,500 hours/yr)			Audit (20,000 hours/yr)			Total
<b>Year 1</b>	\$ 78.00		\$ 1,287,000		\$ 69.00	\$ 1,380,000	\$ 2,667,000
<b>Year 2</b>	\$ 80.34		\$ 1,325,610		\$ 71.50	\$ 1,430,000	\$ 2,755,610
<b>Year 3</b>	\$ 82.75		\$ 1,365,375		\$ 74.00	\$ 1,480,000	\$ 2,845,375
<b>Year 4</b>	\$ 85.23		\$ 1,406,295		\$ 77.00	\$ 1,540,000	\$ 2,946,295
<b>Year 5</b>	\$ 87.79		\$ 1,448,535		\$ 80.00	\$ 1,600,000	\$ 3,048,535
			<b>\$ 6,832,815</b>			<b>\$ 7,430,000</b>	<b>\$ 14,262,815</b>

In the event the Department elects to exercise its one year options to extend the contract, the rates shall not exceed the rates listed below:

<b>Year 6</b>	\$ 90.42		\$ 1,491,930		\$ 84.00	\$ 1,680,000	\$ 3,171,930
<b>Year 7</b>	\$ 93.14		\$ 1,536,810		\$ 88.00	\$ 1,760,000	\$ 3,296,810
							\$ -
			<b>\$ 9,861,555</b>			<b>\$10,870,000</b>	<b>\$ 20,731,555</b>

### 3.0 Time

The number of hours required to complete the tasks covered by this agreement shall be negotiated and agreed upon by the Department and the Contractor prior to the start of work, however, the total number of hours shall not exceed 16,500 for Desk Review and 20,000 for Field Audit. If during the performance of the tasks, the Contractor determines that the agreed upon number of hours to complete the task is insufficient, then the Contractor and the Department shall follow the procedures promulgated in "Notification of Claims."

### 4.0 Maximum Cost

The maximum allowable cost for the five-year term of this contract shall not exceed \$6,832,815 for Desk Reviews and \$7,430,000 for Field Audits and \$5,000 for connectivity for a total of \$14,267,815. An additional \$1,491,930 for Desk Review and \$1,680,000 for Field Audits may be added to the contract should the Department exercise its option to renew this contract for one year. Also, an additional \$1,536,810 for Desk Review and \$1,760,000 for Field Audits may be added to the contract should the Department exercise its second option to renew this contract for one year.



1. PREPARE IN QUINTUPPLICATE.
2. THE STATE AGENCY AND THE CONTRACTOR AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HEREIN AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE.
3. ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS ON PAGE 2.

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 1		(2) IDENTIFICATION NO. P.S. 1246-6100	
<b>CONTRACTOR</b>	(3) CONTRACTOR NAME Craig J. Lubitski Consulting, LLC		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	CONTRACTOR ADDRESS 290 Roberts Street, Suite 303, East Hartford, CT 06108		CONTRACTOR FEIN/SSN 061591019
<b>STATE AGENCY</b>	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106		(6) AGENCY NO. 6100
<b>CONTRACT PERIOD</b>	(7) DATE (FROM) 7/1/2001	THROUGH (TO) 6/30/2006	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD NO. <input type="checkbox"/> NEITHER <input checked="" type="checkbox"/>
<b>CANCELLATION CLAUSE</b>	THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).		(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 days

**COMPLETE DESCRIPTION OF SERVICE**

(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)

Assist the Department of Social Services perform its rate setting activities by conducting desk reviews and field audits per year as described in the Part Three Scope of Work beginning on page 18.

Amendment One of contract 1246-6100 replaces Part Two, Part Three and Part Four of the original contract with the new Part Two, Part Three and Part Four (pages 2-31) incorporated herein. Amendment One is a technical amendment to the contract and does not increase funds to the contract nor does it extend the contract period. All other terms and conditions remain the same.

**COST AND SCHEDULE OF PAYMENT**

(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.

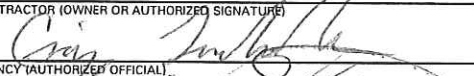

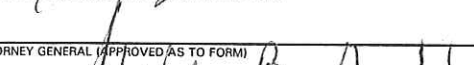

Payment for this contract shall be on a hourly fee-for-service basis as described in Part Four beginning on page 30, of this contract with a total cost not to exceed \$14,267,815 for the duration of the contract through 6/30/2006.

(12) ACT CD	(14) COM TYP PS	(15) LSE. TYP.	(16) ORIG. AGCY 6100	(17) DOCUMENT NO.	(18) COMMIT AGCY 6100	(19) COMMIT. NO.	(20) VENDOR FEIN/SSN - SUFFIX 06-1591019
(21) COMMITTED AMOUNT \$		(22) OBLIGATED AMOUNT \$14,267,815			(23) CONTRACT PERIOD (FROM/TO) 7/1/2001 - 6/30/2006		
(24) ACT CD	(25) COMM. LINE NO.	(26) COMMITTED AMOUNT	(27) COMM AGCY. 6100	(28) COST CENTER FUND: 0 SID:	(29) OBJECTIVE	(30) AGENCY TAIL FUNCTION: (31) ACTIVITY: (32) EXTENSION: (33) FY:	

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

## ACCEPTANCE AND APPROVALS

(34) STATUTORY AUTHORITY C.G.S. 17b-244, 17b-340, 4-8, 17b-3

(35) CONTRACTOR (OWNER OR AUTHORIZED) SIGNATURE 	TITLE Member	DATE 10-10-01
(36) AGENCY (AUTHORIZED OFFICIAL) 	TITLE: Michael P. Starkowski, Deputy Commissioner	DATE 10/15/01
(37) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV. 	TITLE Assoc. Atty. General	DATE 11/13/01
(38) ATTORNEY GENERAL (APPROVED AS TO FORM) 		

CONNECTICUT DEPARTMENT OF SOCIAL SERVICES

Authorization of Signature Document

CRAIG J. LUBITSKI CONSULTING, LLC

UNANIMOUS CONSENT OF MEMBERS

THE UNDERSIGNED, being all of the Members of Craig J. Lubitski Consulting, LLC, a Connecticut limited liability company (the "Company"), do hereby formally meet as the Members of the Company and do hereby agree, propose, adopt, ratify, vote and consent to the following resolution:

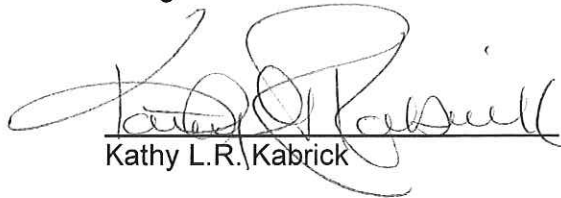
RESOLVED: That Craig J. Lubitski is hereby authorized to make, execute and approve on behalf of the Company any and all contracts and amendments, and to execute and approve on behalf of the Company other instruments, a part of or incident to such contracts and amendments, effective until otherwise ordered by the Members.

SIGNED as of this 10 day of October, 2001.

MEMBERS:



Craig J. Lubitski



Kathy L.R. Kabrick



Then notarize the signatures

My Commission Expires  
October 31, 2003



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  - 2.8.5. Accounting, Consulting and Provider Relations
- 2.9. Key Personnel
- 2.10. Transition
  - 2.10.1. Transition Assistance
  - 2.10.2. Participation in Hearings after Termination and Appearances of Personnel to Assist with Litigation
  - 2.10.3. Rate Calculations and Desk Reviews

### **SECTION 3.0 DEPARTMENT RESPONSIBILITIES**

## **Part Four COST AND INVOICING**

### **SECTION 1.0 INVOICE AND PAYMENT PROCESS**

### **SECTION 2.0 PAYMENT RATES**

### **SECTION 3.0 TIME**

## **PART 2**

### **MANDATORY TERMS AND CONDITIONS**

#### **Section 1 General Contract Provisions**

##### **1.1. CONTRACTUAL AGREEMENTS**

The terms and conditions contained in this section constitute a basis for and are mandatory for this contract. The Department is solely responsible for rendering decisions in matters of interpretation on all terms and conditions.

##### **1.2 CONTRACT TERM**

This contract will be from July 1, 2001 through June 30, 2006. The Department shall have the option to extend this agreement for a maximum of two one-year periods by sending the Contractor a written notice to this effect not less than ninety (90) days prior to the expiration of the contract.

##### **1.3 AUTHORIZATION AND CONTINUATION**

The making and performance of the Agreement by the State of Connecticut are subject to the appropriation and allocation of funds sufficient to discharge the Department's payment obligations under the Agreement, and to the approvals of state officials as required by statute, regulation or administrative order.

The continuation of the Agreement in fiscal years following the fiscal year in which the Agreement is made is subject to the appropriation and allocation of funds sufficient to discharge the payment obligations of the State which accrue in such subsequent fiscal years. In the absence of such appropriation and allocation, the agreement shall be terminated without Department liability for damages, penalties or other charges.

The Department agrees to make all reasonable efforts to obtain funding and all necessary approvals, and to notify the contractor promptly when they have been obtained or when it appears certain that they will not be obtained. Should funds sufficient for a clearly distinct task or tasks be made available, the parties may agree to perform their respective obligations relative to such tasks, and the Agreement shall be amended accordingly.

The continuation of the Agreement is also subject to any significant changes, as determined by the Department, which result in a significant change in the nature or level of services required to calculate the rates that form the basis of this contract. A change in the nature or level of services required, includes but is not limited to, a change in State or Federal Statutes or regulations that requires the imposition of a form of reimbursement different from the cost-related reimbursement system currently utilized. Should such a significant change occur, the Department shall notify the contractor in writing and the Department may either terminate the contract in accordance with paragraph titled "Termination" in the best interests of the State; or the Department may seek to amend the contract upon mutually agreed upon terms varying the tasks to be performed and the price of performing those tasks consistent with the changed circumstances.

##### **1.4 CONTRACT SUSPENSION**

If, at any time during the term of the contract, the Director of the Office of CON and Rate Setting determines that the best interest of the State would be served by temporarily suspending all rate calculation activity or desk reviews, or any part thereof, he shall do so by providing the contractor with a written notice to that effect. The Contractor shall, immediately upon receipt of such notice, cease all affected operations for the period specified in such notice. The Department shall not unreasonably invoke the notice.

The intent of this clause is to provide the State with a right to suspend processing in the event that a significant deficiency is discovered and to hold all processing in suspense pending a satisfactory cure to any such deficiency.

##### **1.5 CONTRACT REVISIONS/ AMENDMENTS**

Revisions to the contract's objectives, services or plan including revisions to due dates for reports and completion of objectives or services, must be approved in writing by the Department. A formal contract amendment shall be required for: extensions to the final date of the contract period, revisions to the contract fees, and any other contract revisions determined material by the Department.



The Department reserves the right to renegotiate the contractor's scope of work and budget at anytime during the term of this contract based on the contractor's performance and actual expenses to date. A formal contract amendment, in writing, shall not be effective until executed by both parties to the contract, and where applicable, the Attorney General.

No amendment may be made to a lapsed contract.

#### **1.6 ASSIGNMENT**

The contractor shall not assign or transfer any interest in this contract without the prior written approval of the contract Administrator. This shall not be construed as limiting the contractor's rights to subcontract some of the services to be performed hereunder as provided in this contract.

#### **1.7 SUBCONTRACTING**

None of the services to be provided by the contractor shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership or group of individuals or other such entity without the prior written consent of the Department. Said subcontract shall contain the access to the books, document and records, provided for in paragraph 2.2 and 2.3 infra. No subcontract or delegation shall relieve or discharge the contractor from any obligation, provision or liability thereunder.

The contractor agrees to make a good faith effort to award a reasonable proportion of subcontracts to small and minority businesses in accordance with Conn. Gen. Stat. Section 4a-60.

#### **1.8 LIAISON**

Both parties agree to have specifically named liaisons at all times. These representatives of the parties will be the first contacts regarding any questions and problems that arise during implementation and operation of the contract.

#### **1.9 NOTICES**

Wherever under this contract one party is required to give notice to the other, such notice shall be deemed given upon delivery, if delivered by hand (in which case assigned receipt will be obtained), or three (3) days after posting if sent by registered or certified mail, return receipt requested. Notices shall be addressed as follows:

Notices and payments to the contractor shall be directed to:

Craig J. Lubitski  
Craig J. Lubitski Consulting L.L.C.  
290 Roberts Street, Suite 303  
East Hartford, CT 06108

Notices to the Department for performance issues shall be directed to:

Gary Richter  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106

Notices to the Department regarding contractual issues shall be directed to:

Lee Vander Baan  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106

Said notices shall become effective on the date of receipt or the date specified in the notice, whichever comes later. Either party may change its address for notification purposes by mailing a notice stating the change and setting forth the new address, which shall be effective on the tenth (10th) day following receipt.

#### **1.10 LOCATION OF CONTRACTOR FACILITIES**

Due to the nature of this contract and the need for close liaison and coordination with the department's personnel and others, the contractor shall maintain as its major work site for the performance of the duties required under this contract, an office in Connecticut within thirty minutes driving distance from Hartford, Connecticut. The office and processing facility may be one and the same.

#### **1.11 QUALIFICATIONS TO CONDUCT BUSINESS**

The contractor shall within sixty days from the effective date of the contract provide written assurance to the Department from its legal counsel that the contractor is qualified to conduct business in Connecticut, and is not prohibited by its articles of incorporation, bylaws, or the law under which it is incorporated or, if a partnership, by the partnership agreement from performing the services required under this contract.

#### **1.12 OTHER BUSINESS INTERESTS**

The contractor shall not enter into any business dealings during the term of this contract with any facilities whose rates will be established and/or desk reviewed pursuant to this contract. The contractor also shall not represent any facility after the termination of the contract concerning any rates established or desk reviewed during the period of the contract.

#### **1.13 REPORTING**

The contractor may be required to file progress reports on a monthly basis in a form and manner to be determined by the Department. In addition, upon contract completion or termination, the contractor may be asked to submit a final report that summarizes and evaluates the activities of the entire project to date.

The Contractor will at the request of the Department provide a formal progress review.

#### **1.14 DELINQUENT REPORTS**

The Department reserves the right to withhold payment for the contract if the Department has not received on a timely basis, acceptable progress reports, expenditure reports, refunds, audits and/or other information as required for any and all contracts the contractor has entered into with the Department.

#### **1.15 MAINTENANCE OF SEPARATE ACCOUNTING SYSTEM**

The contractor shall maintain accounting records in a manner which will enable the state to easily audit and examine any books, documents, papers and records maintained in support of the contract. All such documents shall be made available to the Department at its request, and shall be clearly identifiable as pertaining to the contract.

#### **1.16 EXAMINATION OF RECORDS**

The Department and its representatives, (including HHS, HCFA, and the Comptroller General of the United States and their duly authorized representatives) during the term of this contract and for a period of three (3) years after final payment for the services performed under this contract or any extension and all pending matters are closed shall have the right to enter into the contractor's premises, or such other places where duties under the contract are being performed to inspect, monitor, evaluate (include system testing) the work being performed and related documents. This provision also applies to the books, records, including but not limited to financial records, documents and papers of any parent, affiliated or subsidiary organization of contractor or any subcontractor approved by the Department pursuant this contract performing under formal or informal arrangement any service or furnishing any supplies or equipment to the contract involving transactions related to this contract. Any contract with an approved subcontract must contain a provision specifically authorizing access in accordance with the terms set forth in this paragraph. The contractor and all sub-contractors shall provide reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. In addition, the contractor shall develop and maintain all records and documents in a manner consistent with or equivalent to the standards of the American Institute of Certified Accountants.

If an audit, litigation, or other action involving the records is started before the end of the three year period, the records must be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later. The contractor further agrees that this provision shall be inserted in each subcontract.

#### **1.17 USE AND DELIVERY OF FILES**

Throughout the course of the contract, the Department shall have the right to obtain copies of any pertinent file or files in the possession of the contractor. Upon written or verbal request, the contractor will deliver to the Contract Officer said file or files within five working days. The Contractor's compensation shall not exceed the contractor's all inclusive hourly rate.

Failure by the Contractor to comply with any such order shall result in the imposition of a credit against any amounts due or to become due to the Contractor of not more than \$500.00 per day for each work day beyond the five (5) day required response time. Since the value of any particular file or files to the State will vary depending upon the urgency or criticality of need, the particular amount of the credit up to the limit set forth above shall be set by the Contract Officer and included in the original order.

Any such credit that may become due shall be taken from the next payment processed for the Contractor's operational reimbursement and as such will be considered as a rate reduction for unsatisfactory performance. The imposition of, or the failure to impose, any such credit shall not relieve the obligation of the Contractor to deliver, at its expense, the requested materials. This rate reduction is not intended and shall not be construed as the State's sole remedy for nonperformance and the Department may also invoke any other remedy the Department may have.

## **Section 2                      Ownership**

### **2.1                      OWNERSHIP**

All products and materials developed as a result of this contract by the contractor, or any of its subcontractors hired for the purposes of this contract shall remain the property of the Department. Products and materials are defined as, but not limited to, copyrighted materials; camera ready copy; mechanical equipment; videos; brochures; posters and stock thereof; designs; data; and all other matter and information that is collected or developed for the purpose of this contract.

Disposition of all products and materials shall remain at the discretion of the Department during the effective period of this contract and thereafter.

### **2.2                      CREDIT AND RIGHTS IN DATA**

2.2.1        The contractor may not publish or copyright any data without prior approval, unless otherwise stated herein. The Department and the Federal Government shall have the right to publish, duplicate, use and disclose all such data in any manner, and for any purpose whatsoever, and may authorize others to do so.

2.2.2        "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including, but not limited to, all reports, surveys, plans, charts, recordings (video and/or sound), pictures, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.

### **2.3                      INSPECTION OF WORK PERFORMED**

The Department or its authorized representative shall at all reasonable times have the right to enter into contractor's premises, or such other places where duties under the contract are being performed, to inspect, monitor or otherwise evaluate (including periodic systems testing) the work being performed. The contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. In addition, contractor agrees to develop and maintain all records and documents in a manner consistent with or equivalent to the standards of the American Institute of Certified Public Accountants.

### **2.4                      CONFIDENTIALITY**

All material and information provided to the contractor by the State or acquired by the contractor in performance of the contract whether verbal, written, recorded magnetic media, cards or otherwise shall be regarded as confidential information and all necessary steps shall be taken by the contractor to safeguard the confidentiality of such material or information in conformance with federal and state statutes and regulations. The contractor agrees that it is prohibited from releasing any and all information provided by the Department or providers or any information generated by the contractor without the prior express written consent of the Contract Administrator.

### **2.5                      RIGHT TO PUBLISH**

All materials developed during the term of this contract are considered proprietary to the Department and shall remain confidential.

Throughout the term of the contract, the contractor must secure the Department's written approval prior to the release of any information whatsoever that pertains to work or activities covered by the contract.



**Section 3 Liabilities and Indemnification**

**3.1 HOLD HARMLESS**

The contractor agrees to indemnify, defend and hold harmless the State of Connecticut; and all Departments, officers, agents and employees of the State from and against any and all claims, losses or suits arising from the Contractor's failure, including, but not limited to, overpayments made to providers which cannot be recouped by the Department in the ordinary course and any and all claims, losses or suits arising from any contractors, subcontractors, laborers and any person, firm or corporation who may be directly or indirectly injured or damaged by the contractor in the performance of the contract.

**3.2 WORKERS' COMPENSATION**

The Department may request, in writing, a copy of the contractor's workers' compensation insurance policy. If such a request is made, contractor must file a copy of its workers compensation insurance policy with the Department's contract Administrator, no later than fifteen (15) business days following receipt of the written request.

**3.3 PATENT INFRINGEMENT**

The contractor at his own expense must defend any and all claims or suits that may be brought against the Department or the State for the infringement of any patents, copyrights, proprietary rights or right of privacy arising from the contractor's or State's use of any equipment, materials or information prepared or developed in conjunction with the performance of the contract. The contractor shall, in any such suit, satisfy any and all damages directly or indirectly assessed against the State or its departments, be it resolved by settlement, final judgment, consent decree or any other manner.

**3.4 AUDIT LIABILITIES**

In addition to and not in any way in limitation of the obligation of the contract, it is understood and agreed by the contractor that the contractor shall be held liable for any State of Federal audit exceptions and shall return to the Department all payments made under the contract to which exception has been taken or which have been disallowed because of such an exception in accordance with Connecticut General Statutes 7-396a.

**3.5 MOST FAVORED CUSTOMER**

The contractor agrees that if during the term hereof the contractor shall enter into any contract with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent equipment or services at lower prices, or additional services at comparable prices, the contractor shall so notify the Department and the contract shall, at the Department's option, be amended to accord equivalent advantage to the Department.

**3.6 LITIGATION**

The contractor agrees to provide written notice to the Department of any litigation that relates to the services directly or indirectly financed under this contract or that has the potential to impair the ability of the contractor to fulfill the terms and conditions of the contract, including, but not limited to financial, legal or any other situation that may prevent the contractor from meeting its obligations under the contract.

**3.7 WARRANTY OF WORK**

The contractor warrants all delivered program modifications, documentation, reports, procedures and other items/services as properly functioning and compliant with the terms of the contract. Contractor liability with respect to warranty shall include correction of errors/omissions and design deficiencies throughout the system and replacement of incorrect or defective documentation and data within three weeks of notification by the Contract Officer of such deficiencies, or such longer period as may be necessary using all diligence and dispatch as agreed between the Contracting Officer and the contractor. If the contractor fails to repair an identified error, deficiency or defect within such period, the State may, at its option, act to repair and the Contractor will be required to reimburse the State for all costs incurred.

**3.8 DUE DILIGENCE**

The Department shall make all policy decisions and the Contractor shall carry out with due diligence any such decision communicated to the Contractor. In the event that the Contractor may request in writing that the Department answer questions posed by the Contractor required for proper performance of the contract, the



Department shall do so in writing in a timely manner. The Contractor shall be entitled to rely upon and act in accordance with such responses and shall incur no liability in doing so unless the Contractor acts negligently, maliciously, fraudulently or in bad faith.

## **Section 4 Interpretations and Disputes**

### **4.1 SETTLEMENT OF DISPUTES**

Any dispute concerning a question of fact arising under the Contract which is not disposed of by agreement shall be decided by the Contract Administrator whose decision shall be final and conclusive subject only to whatever rights, if any, the Contractor may have in a court of law including the office of the Claim's Commissioner for the State of Connecticut. In connection with any appeal to the contract Administrator under this paragraph, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute, the contractor shall proceed diligently with the performance of the contract in accordance with the contract Administrator's decision.

### **4.2 CHOICE OF LAW AND CHOICE OF FORUM**

The contractor agrees to be bound by the laws of the State of Connecticut and that this contract shall be constructed and interpreted in accordance with Connecticut law in the event a choice of law situation arises.

### **4.3 SEVERABILITY**

If any provision of this contract is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations under that provision. The remainder of this contract shall be enforced to the fullest extent permitted by law.

### **4.4 WAIVERS**

No covenant, condition, duty, obligation or undertaking contained in or made a part of this contract shall be waived, except as specifically provided in any section of this contract or by the written agreement of the parties. Forbearance or indulgence in any form or manner by the Department in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation or undertaking to be kept, performed, or discharged by the contractor. Notwithstanding any such forbearance or indulgence, until complete performance or satisfaction of all such covenant, conditions, duties, obligations and undertakings, the Department shall have the right to invoke any remedy available under the contract, or under law or equity.

## **Section 5 Personnel**

### **5.1 INDEPENDENT CAPACITY OF CONTRACTOR**

The contractor including its officers, employees, subcontractors, or any other agent of the contractor is acting as an independent contractor in performance of this contract. The contractor does not have, nor shall contractor hold themselves out as having, any right, power or authority to create any contract or obligation either express or implied, on behalf, in the name of, or binding upon the State of Connecticut or of the Department. The contractor shall be solely responsible and liable for contractor's employees and their acts.

### **5.2 KEY PERSONS**

The contractor certifies that all key personnel named in their scope of work shall actually work on the contract in the manner described in their proposal. No changes, substitution, additions or deletions shall be made unless approved in advance by the Contract Administrator. In addition, these individuals shall continue for the duration of the contract, except in the event of resignation or death. In such event, the substitute personnel shall be approved by the Contract Administrator. Substitutions shall be made within thirty (30) days of the resignation, incapacity or death of a key person.

During the course of the contract, the Department reserves the right to approve or disapprove the contractor's and any subcontractor's key staff assigned to this contract, to approve or disapprove any proposed changes in key staff, or to require the removal or reassignment of any contractor employee or subcontractor employee found unacceptable by the Department.

Any employee of the contractor, who, in the opinion of the Department is uncooperative, inept, incompetent, or otherwise unacceptable, shall be removed from this contract. In the event that an employee is removed pursuant to the Department's written request from the contract Administrator, the contractor shall have thirty (30) days in which to fill the vacancy with an acceptable employee. Replacement of any personnel, including those

who have terminated employment, shall be with key personnel of equal ability and qualifications as approved by the Department. The contractor shall, upon request, provide the Department with a resume for any member of its staff or of a subcontractor's staff assigned to or proposed to be assigned to any aspect of the performance of this contract.

Failure to abide by the conditions as stated in this Key Personnel section will cause the imposition of reduction in rates of payment immediately upon receipt of notice by the Contractor, in an amount set by the Contract officer, which amount will not exceed \$5,000.00 for each offense. Any such credit which may become due shall be taken from the next payment processed for the Contractor's operational reimbursement and as such will be considered as a rate reduction for unsatisfactory performance. The imposition of any such credit shall not relieve the obligation of the Contractor to comply with the requirements of this paragraph and is not intended and shall not be construed as the State's sole remedy for nonperformance which it is agreed includes but is not limited to specific performance, replacement at the Contractor's expense and or damages.

### **5.3 ADDITIONAL CONTRACTOR ASSISTANCE**

The Contractor shall assist the Department from during and beyond the contract term to insure that all statutory and regulatory requirements of the Department are met. Therefore, the Contractor agrees as follows:

**5.3.1 Key Personnel:** The key personnel referred to and as proposed by the bidder may develop unique knowledge and experience with the audits of long-term care facilities and unique experiences with the operations performed by the Contractor on behalf of the Department. It is agreed that these key personnel will be made available to the Department to assist in any aspect in any conversion, if any, becomes necessary at the end of the term of this Contract, from the Contractor to its successor. If the Contractor wishes to propose a substitute, it must demonstrate to the satisfaction of the Department that the person has equal ability, qualifications and familiarity with the operations performed by the Contractor on behalf of the Department so that the substitution will not hamper the transition. The Department will be the sole and ultimate arbiter of whether the substitution is satisfactory.

**5.3.2 Appearances of Personnel to Assist with Litigation:** The Department may require the presence of the key personnel from time to time at administrative hearings within the Department or at arbitration hearings or at hearings before various courts. After the term of this contract, regarding work performed by the Contractor during this contract it is agreed that the listed key personnel shall be made available to the Department for as many hours as the Department, at its option, chooses to utilize the said personnel. In the event that said proceedings require the presence of someone other than the key personnel who is or was at the time the work in question was performed, an employee of the Contractor, it is agreed that the Contractor shall make available any required individual who is a current employee. The Contractor also agrees to use its best efforts to locate any former employee whose presence is required and assist the department in making arrangements to have said individual appear.

Compensation for any additional contractor assistance shall be made at the hourly rate in effect for the last contract period prior to termination.

### **5.4 UTILIZATION OF MINORITY BUSINESS ENTERPRISES**

The government of the State of Connecticut and the Department believe that minority business enterprises should have the maximum opportunity to participate in the performance of government contracts. The contractor agrees to use its' best efforts consistent with Section 45 CFR 74.161 and paragraph 9 of Appendix G thereto as well as Connecticut Public Act 84-412, and section 4a-60 of the Connecticut General Statutes to carry out this policy in the award of any subcontracts which may be permitted.

### **5.5 UTILIZATION OF HANDICAPPED WORKERS**

The contractor certifies that it will not discriminate against any employee or applicant for employment because of a physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship.

## **5.6 AMERICANS WITH DISABILITIES ACT OF 1990**

The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to Section 504 of the Federal Rehabilitation Act of 1973, regarding access to program and facilities by handicapped individuals.

## **5.7 NONSEGREGATED FACILITIES**

The contractor certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments; and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. As contractor, the organization agrees that a breach of this certification is a violation of Equal Opportunity in Federal Employment. In addition, contractor must comply with the Federal Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the United States Department of Labor Regulations (41 CFR Part 30). As used in this certification, the term "segregated facilities" includes any waiting rooms, restaurants and other eating areas, parking lots, drinking fountain, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, color, religion, or national origin, because of habit, local custom, national origin or otherwise. The organization further agrees, (except where he has obtained identical certifications from proposed subcontractors for specific time periods) that it will obtain identical certifications from proposed subcontractors which are not exempt from the provisions for Equal Employment Opportunity; that it will retain such certifications in its files; and that it will forward a copy of this clause to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

## **5.8 PROVISIONS REQUIRED PURSUANT TO P.A. 91-58 SECTION 16(B) AND P.A. 91-407 SECTION 8**

### **5.8.1 The contractor agrees and warrants:**

- 5.8.1.1 that in performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
- 5.8.1.2 to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
- 5.8.1.3 to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to Section 46a-56 of the general statutes;
- 5.8.1.4 to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.

- 5.8.2. The contractor shall include the provisions of section (5.8.1) in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or order of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.



#### **5.9. EMPLOYMENT/ AFFIRMATIVE ACTION CLAUSE**

The contractor agrees to supply employment/affirmative action information as required for agency compliance with Titles VI and VII of the Civil Rights Acts of 1964 and Connecticut General Statutes, Section 46a-68 and Section 46a-71.

#### **5.10 PRIORITY HIRING**

The contractor agrees, subject to its exclusive right to determine the qualifications for all employment positions, it shall use its best efforts to ensure that it gives priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The contractor and the Department shall cooperatively determine the number and types of positions to which this paragraph shall apply. The Department shall counsel and screen an adequate number of appropriate candidates for positions targeted by the contractor as suitable for individuals receiving benefits under the time-limited welfare program.

#### **5.11 SMOKING POLICY**

If the contractor is an employer subject to the provisions of Section 31-40q of the Connecticut General Statutes, the contractor agrees to provide the Department with a copy of its written rules concerning smoking. The rules or a statement that the contractor is not subject to the provisions of Section 31-40q of the Connecticut General Statutes must be received prior to contract approval by the Department.

#### **5.12 EXECUTIVE ORDERS NUMBERS 3 AND 17**

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination until the contract is completed or terminated prior to completion. The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the contractor will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

This contract is also subject to provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

#### **5.13 EXECUTIVE ORDER NUMBER 16**

This contract is subject to Executive Order No. 16 of Governor John G. Rowland promulgated August 4, 1999 and, as such, this contract may be canceled, terminated or suspended by the State for violation of or noncompliance with said Executive Order No. 16. The parties to this contract, as part of the consideration hereof, agree that:

- (a) The contractor shall prohibit employees from bringing into the state work site, excepts as may be required as a condition of employment, any weapon or dangerous instrument as defined in (b):
- (b) Weapon means any firearm, including BB gun, whether loaded or unloaded, any knife (excluding small pen knife or pocket knife), including a switchblade or other knife having an automatic spring release device, stiletto, any police baton or nightstick or any martial arts weapon or electronic weapon.

Dangerous instrument means any instrument, article, or substance that, under the circumstances, is capable of causing death or serious physical injury.

- (c) The contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threaten to cause, physical injury or death to any individual in the state work site.
- (d) The contractor shall adopt the above prohibitions as work rules, violations of which shall subject the employee to disciplinary action up to and including discharge. The contractor shall insure that all employees are aware of such work rules.
- (e) The contractor agrees that any subcontract it enters into in furtherance of the work to be performed hereunder shall contain the provisions (a) through (d).

## **Section 6 Payments**

### **6.1 APPROVAL**

The Department and the State of Connecticut assume no liability for payment under the terms of any agreement or contract until contractor is notified, in writing, that the contract has been approved by the Office of Policy and Management, and/or by the Attorney General of the State of Connecticut as appropriate.

### **6.2 PAYMENTS**

The Department will pay the contractor based upon monthly invoices for actual hours worked.

The contractor shall submit invoices for actual hours worked and a certification statement signed by an official of the Contractor with legal authority to bind said Contractor that the hours billed represent actual hours worked as supported by time and attendance records maintained by the company. The Department reserves its right to examine the above records at any time during normal working hours.

The all-inclusive hourly rates will be the only vehicles by which payments will be made by the State and is intended to cover all costs associated with the performance of the contract. Total compensation for the performance of all duties and responsibilities under this Contract shall be the authorized hours times the all-inclusive rate. Payment of the maximum referenced above does not excuse the Contractor from his obligation to complete all of the duties and responsibilities specified in this contract.

The Department shall remit all payments within thirty (30) days after receipt of the Contractor's invoice. Payments not received within 30 days after receipt of Contractor's invoice will be subject to a monthly interest charge of 1% of the total due under the invoice. Such interest charge shall be itemized on and payable with the next month's invoice.

### **6.3 FEDERAL OR STATE FUNDS AVAILABILITY**

The Department assumes no liability for payment under the terms of this contract until and unless the Federal or State funds for this contract are authorized and made available.

### **6.4 CLAIM NOTIFICATION**

- 6.4.1 The Contractor shall provide written claim notice to the Department within 30 days of any unforeseen event the Contractor believes constitutes a basis for an adjustment to any element of the price. An unforeseeable event may include, without limitation, State action or inaction and written or oral communication from any State officer that affects the work performed under this contract or the time for the Contractor's performance, or both. The Contractor's claim notice shall contain the information specified below based on the most accurate information then available to the Contractor:
  - 6.4.1.1 The date, nature, and circumstances of the event.
  - 6.4.1.2 The names, function, and activity of each individual, Contractor, subcontractor, state official, or employee involved in or knowledgeable about said event.
  - 6.4.1.3 The identification of any documents and the substance of any oral communications involved in such event.
  - 6.4.1.4 The reason why the Contractor believes that the event justifies an adjustment to price or performance schedule elements of the Contract.
  - 6.4.1.5 The particular elements of the price or performance schedule portions of the contract the Contractor believes should be adjusted.
  - 6.4.1.6 The Contractor's best estimate as to the extent to which each such price and performance schedule element of the contract should be adjusted.



- 6.4.1.7 The Contractor's requirement as to the date which the State must respond to the Contractor's notice in order to minimize the costs, delay, or disruption of performance.
- 6.4.1.8 Following submission of the required notice, the Contractor shall diligently continue performance of the contract to the maximum extent possible.
- 6.4.2 The Department shall respond in writing as promptly as possible under all the circumstances. The response shall:
  - 6.4.2.1 Confirm that the event as to which the Contractor gave notice constitutes a basis for an adjustment to the contract price or performance schedule or both, and where necessary, direct the manner of further performance. (In this instance the Department shall issue a written change notice and the parties shall proceed in accordance with the terms of same) or
  - 6.4.2.2 Countermand any action or communication earlier given relating to the event as to which the Contractor gave notice, or
  - 6.4.2.3 Deny that the event as to which the Contractor gave notice constitutes a basis for adjustment to the price or performance schedule of the contract, and, where necessary, direct the manner of further performance. (the Department shall issue a final decision to this effect and the Contractor may proceed in accordance with the clause entitled Disputes). or
  - 6.4.2.4 Advise the Contractor as to what additional information, if any, is required and establish the date by which said information should be furnished and the date thereafter by which the Department will attempt to respond if the information in the Contractor's notice is inadequate to permit a decision to be made under the above.
- 6.4.3 If the Contractor fails to submit a notice in the manner and within the time specified above, such failure shall constitute a waiver by the Contractor of all claims arising out of said event, whether direct or consequential in nature.

## **Section 7 Termination**

### **7.1 OFFER OF GRATUITIES**

The contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from the award of this contract. This contract may be terminated by the Department if it determines that gratuities of any kind were either offered to or received by any of the aforementioned officials or employees from the contractor, its agent(s) or employee(s).

### **7.2 TERMINATION**

The contract may be terminated by the Department upon thirty (30) days advance written notice delivered to the contractor specifying a date of termination.

The State may terminate this contract for the following reasons:

- 7.2.1. For Default (See Below)
- 7.2.2. For Convenience (See Below)
- 7.2.3. For Unavailability of Funds (See Below)
- 7.2.4. For Financial Instability (See Below)

All notices of termination as defined in the subsections below shall be signed by the contract Administrator.

#### **7.2.1 TERMINATION FOR DEFAULT:**

The State may terminate this contract in whole, or in part, whenever the Department determines that the contractor or any subcontract has failed to satisfactorily perform its contracted duties and responsibilities and is unable to cure such failure, within a reasonable period of time as specified in writing by the contract Administrator, taking into consideration the gravity and nature of the default. Such determination shall be referred to herein as "Termination for Default".

Upon determination by the Department that the contractor has failed to satisfactorily perform its contracted duties and responsibilities, the contract Administrator shall notify the contractor of its failure to perform and shall establish a reasonable time period, not to exceed thirty (30) days, in which to cure such failure. If the contractor is unable to cure the failure within the specified time period, the contract Administrator will notify the contractor

that the contract has been terminated for default, in whole or in part. Such notices shall be in writing and delivered to the contractor by certified mail, return receipt requested.

If, after notice of termination for default, it is determined by the Department or a court, including the office of the Claim's Commissioner for the State of Connecticut, that the contractor was not in default or that the contractor's failure to perform or make progress in performance was due to causes beyond the control and without error or negligence of the contractor or any of its subcontractors, the notice of termination shall be deemed to have been issued as a termination for the convenience of the Department, and the rights and obligations of the parties shall be governed accordingly.

In the event of a termination for default, the contractor shall be paid for those services the contractor has satisfactorily provided to the Department pursuant to this contract.

The rights and remedies of the Department provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law under the contract.

#### **7.2.2 TERMINATION FOR CONVENIENCE**

The Department may terminate performance of work under the contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.

In the event that the Department elects to terminate the contract pursuant to this provision, the contract Administrator shall notify the contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

#### **7.2.3 TERMINATION FOR UNAVAILABILITY OF FUNDS**

It is understood and agreed by the parties hereto that all obligations of the Department, including the continuance of payments hereunder, are contingent upon the availability and continued appropriation of State and/or Federal funds, and in no event shall the Department be liable for any payments hereunder in excess of such available appropriated funds. In the event that the amount of any available or appropriated funds provided by the State and/or Federal sources for the purchase of services hereunder shall be reduced, terminated or shall not be continued at an aggregate level sufficient to allow for the purchase of the specified amount of services to be purchased hereunder for any reason whatsoever, the Department shall notify the contractor of such reduction of funds available and the Department shall be entitled to reduce its commitment hereunder as it deems necessary.

#### **7.2.4 TERMINATION FOR FINANCIAL INSTABILITY**

In the event that the contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under this contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, the Department may, at its option, immediately terminate this contract. In the event the Department elects to terminate this contract under this provision, it shall do so by the contract Administrator sending notice of termination to the contractor by certified mail, return receipt requested, specifying the date of termination. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the contractor shall immediately so advise the Department. The contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve contractor of its duties under this contract.

#### **7.3 PROCEDURE ON TERMINATION**

Upon delivery by certified mail to the contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the contractor shall:

- 7.3.1 Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- 7.3.2 Terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- 7.3.3 Assign to the Department in the manner and to the extent directed by the contract Administrator all of the right, title, and interest of the contractor under the subcontracts so terminated, in which case the

Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.

- 7.3.4 Complete the performance of such work as has not been terminated by the Notice of Termination.
- 7.3.5 Provide the Department all property of the State, all documents, files, data, programs, training material, and all other material prepared to the date of termination. In this event the Department will pay the contractor all reasonable costs incurred by the contractor to the date of termination for any material the Department retains.

#### **7.4 TRANSITION AFTER TERMINATION OR EXPIRATION OF CONTRACT**

In the event that this contract is terminated for any reason the contractor will assist in the orderly transfer of operations described in this contract as required by the department and will assist in the orderly cessation of operations under this contract. The contractual agreement may be amended as necessary to assure transition requirements are met during the term of this contract.

### **Section 8 Performance Sanctions - Consequences of Failure to Perform**

The contractor acknowledges that the Department will have no adequate remedy at law and will likely suffer irreparable harm in the event of a failure by the contractor to perform or provide the services and materials which it has agreed to perform and provide in this agreement (both during and after the term of this contract) and that specific performance and/or injunctive relief will provide the only adequate relief for such failure. The contractor shall have the right to oppose any action seeking specific performance and/or injunctive relief on the basis that the failure to perform arises out of causes beyond the control of the contractor and for causes which the contractor is not at fault for producing either intentionally or unintentionally. Such causes may include, but are not restricted to, acts of God, subsequent legislation by the State or Federal government, fires, floods, epidemics, strikes by other than the Contractor's employees, freight embargoes and unusually severe weather.

In the event that any of the services or materials which are required to be performed or provided as set forth in this agreement are not performed or provided as required by this agreement, the Department may withhold, for a period of thirty (30) days, twenty-five percent of any payments then due the Contractor. If the Contractor performs or provides the required services or materials within said thirty (30) day period, the Department will release the withheld payment. If at the conclusion of the thirty (30) day period, the Contractor has not performed the required services or provided the required materials, the Department shall be entitled to keep the withheld amount and to continue to withhold from each successive billing under the same conditions as herein above described as a rate reduction for such to perform or provide as required by this agreement. The rate reduction provided for above, however, shall not in any way be construed as an adequate remedy for the failure to perform and implementation of this rate reduction provision or the failure to implement it, shall not be construed as anything other than as a means of further encouraging the Contractor to perform. It is not to be construed as the Department's sole remedy nor as an alternative remedy to the specific performance and injunctive relief provisions set forth above.

### **Section 9 Miscellaneous**

#### **9.1 AWARD OF RELATED CONTRACTS**

The Department may undertake or award supplemental contracts for work related to this contract or any portion thereof. The contractor shall be bound to cooperate fully with such other contractors and the Department in all such cases. All subcontractors will be required to abide by this provision as a condition of the contract between the subcontractor and prime contractor.

#### **9.2 ANTI-LOBBYING CLAUSE**

The contractor agrees that no federal appropriated funds have been paid or will be paid, by or on behalf of the contractor or its subcontractors, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

The contractor or its subcontractors shall complete and submit a Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions if any funds other than federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement.

### **9.3 UNLAWFUL BOYCOTT**

The contractor warrants, represents and agrees that during the time this contract is in effect, neither it nor any affiliated company participates in or cooperates with an international boycott, as defined in 26 U.S.C. section 999(b) (3) and (4) of the Internal Revenue Code of 1954, as amended.

### **9.4 INDEPENDENT PRICE DETERMINATION**

By entering into this contract, the contractor certifies, as to its own organization, and in connection with this contract that the costs proposed have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such process with any other organization or with any competitor.

### **9.5 FORCE MAJEURE**

Neither party shall incur liability for any failure to perform its obligations under this contract due to causes beyond its control including, but not limited to, fire, storm, flood, earthquake, explosion, accident, acts of war, acts of God, acts of federal, state or local government or any agency thereof and judicial action, acts of third parties, and computer or equipment failures other than those caused by the sole negligence of either party.

### **9.6 CHANGE ORDER PROCESS**

9.6.1 The Department may, at any time, with written change order notice to the contractor, make changes within the general scope of the contract. Such changes may include short-term research projects, data exchange enhancements or other activities required by new or amended Federal or State laws or regulations. The Department shall reimburse the contractor for any activities required by new or amended State or Federal laws or regulations not mentioned in the Scope of Work or for any other changes outside the Scope of Work defined in the contract which the Department deems necessary.

9.6.2 The written Change Order issued by the Department shall specify whether the change is to be made on a certain date or placed into effect only after approval of the contractor's fee or cost proposal as described in the following paragraph. No changes in scope are to be conducted except by the express written approval of the Department's Contract Administrator.

9.6.3 As soon as possible after receipt of a written Change Order request, but in no event more than five (5) business days thereafter, the contractor shall provide the Department with a written statement that the change has a cost neutral effect on the Department, or that there is a cost impact, in which case the statement shall include a description of the cost involved in implementing the change.

9.9.4 Significant Change Order work may require authorization from the State of Connecticut Office of Policy and Management in order to formally amend the contract to allocate additional funds to this project.



## **Part Three SCOPE OF WORK**

### **SECTION 1.0 INTRODUCTION**

#### **1. Definitions**

Auto-immune Deficiency Syndrome - AIDS

Annual Report of Long Term Care Facility - Cost Report

Certificate of Need - CON

Consolidated Operating Report - COR

Federally Qualified Health Center -FQHC

Health Care Financing Administration - HCFA

Intermediate Care Facilities for the Mentally Retarded - ICF/MR

Microsoft Sequential Query Language - SQL

Rate Computation Report - RCR

Request for Information - RFI

#### **2. Overview**

The Department establishes payment rates for nursing facilities, residential care homes, ICF/MR facilities, specialized AIDS facilities and group homes for the mentally retarded under federal and state statutes (Section §17b-340, §17b-244 of the Connecticut General Statutes and §17-311-52, §17-313b-5 of the Regulations of State Agencies), and the requirements of the federal HCFA. The rates for these services are based upon annual cost reports filed by the facilities and are subject to allowable cost limits and rate setting formulas established in statute and regulations. The allowable cost limits and rate setting methods vary by facility licensure type. The Department owns the cost report data base and rate computation system ("Rate System"), written in Microsoft SQL, 6.5 Power Builder Software 5.0, that is used for rate setting and reporting.

Using the specific requirements as identified in Section 2.0 TASKS below, the contractor shall enter data (and accept electronic submissions) for cost report filings in the Department's cost report data base, perform prescribed desk review procedures on reported costs and data to verify and identify allowable costs, calculate rates with supporting detail for the provider, perform field audits, and maintain the rate promulgation system. The contractor shall also compute revised rates due to field audits, cost report corrections and adjustments associated with appeal settlements, Wage Benefit and Staffing Enhancement Program spending reviews, standard and ad hoc reports and special cost analyses.



## **SECTION 2.0 TASKS**

### **1 Cost Report Data Entry and Desk Review**

#### **a Cost Report Updates**

The contractor shall:

##### **(1) Annual Report Updates**

Update the Annual Report of Long Term Care Facility ("Cost Report") each October 31 in paper and electronic form. This update shall reflect date and other revisions specified by the Department.

##### **(2) Cost Report Format**

Provide the Cost Report in electronic form as determined by the Department. The electronic form of facility cost reports includes diskettes and/or availability on the Contractor's internet site.

#### **b. Cost Report Data Entry and Electronic Filings-**

The contractor shall:

##### **(1) Rate System**

Enter Cost Report and Consolidated Operating Report (COR) data into the Rate System including manually entering data from hard copy (paper) and transferring electronic Cost Report data into the Rate System.

##### **(2) Format Comparison**

Compare hard copy and electronic submissions and revise Rate System data to reflect the hard copy (paper) information when paper and electronic submissions from the same facility are inconsistent.

##### **(3) Data Entry Deadlines**

Enter data for all Cost Report and COR data submitted by December 31 by February 10 of the following year, for each year of the contract. Enter data for late filings within four weeks of receipt.

##### **(4) Data Field Updates**

Update all data fields necessary for rate setting as well as the facility administrator, owner and management company input fields in the Rate System.

#### **c. Desk Review**

The contractor shall:

##### **(1) Review Protocols**

Review each annual Cost Report and COR filings ("Desk Review") in accordance with the Department's Desk Review Protocols for Cost Reports and COR and in accordance with applicable regulatory and statutory provisions.

##### **(2) Data Verification**

Verify and properly categorize cost and statistical data.

**(3) Order of Reviews**

Review the filings in the order by date in which they are filed unless otherwise directed by the Department.

**(4) Desk Review Coordination**

Coordinate the Desk Review for all facilities that have the same ownership or are owned in part by the same individual(s) or entities.

**(5) Prior Review Examination**

Examine the previous year's Desk Review before commencing with a Desk Review for a particular facility and also review the most recently issued field audit for the facility as needed to ensure that any appropriate adjustments are made in the desk review process.

**(6) Protocol Revisions**

Propose to the Director of CON and Rate Setting changes, updates and revisions to the Desk Review Protocol by October 15 annually to improve methods of identifying facilities with potentially unallowable costs or costs requiring further documentation or explanation by the facility, review and/or field audit. The contractor shall not implement changes before the Department approves changes to the Desk Review protocol. The Department shall update the Desk Review protocol at least annually by November 1. Nevertheless, the Desk Review Protocol must continue to include the following:

- (a) The procedures to be followed in reviewing each item of Cost Report and COR.
- (b) A clear delineation of the parameters of review.
- (c) A description of the error correction process.
- (d) Documentation requirements for the conduct of Desk Reviews.

**(7) Requests For Information**

The contractor shall:

- (a) Request information from facilities in writing when the Annual Reports from those facilities are incomplete, contain errors or costs or statistical information requires explanation.
- (b) Request specific information from the facilities in writing by March 31 of each year for Cost Reports and COR which were received by December 31 of the prior year.
- (c) Request information by April 15 from facilities that file late Cost Report filings before January 31 of any given year.
- (d) Request information from facilities that file Cost Reports and CORs after January 31, within ten (10) weeks of the Contractor's receipt of such filings.

- (e) Direct facilities to forward responses to requests for information to the Office of CON and Rate Setting, Department of Social Services within ten (10) business days from the facility's receipt of a request for information.
- (f) Notify facilities that any responses to requests for information that include revised pages to an originally filed Cost Report must include a properly executed Administrator/Owner Certification page (Page 1 of Cost Report).
- (g) Reissue requests for information when the Department does not receive responses within ten days from the Contractor's initial mailing.
- (h) Provide a listing to the Department on April 15 of each year, and monthly thereafter, of outstanding facility responses to the Contractor's requests for information.

**d. Desk Review Training**

The contractor shall conduct a one-day/8 hour training session each December for Desk Review staff. The training shall review the Desk Review Protocol including changes to the protocol and any modifications to rate-setting methods.

**e. Development of Desk Review Protocol for Consolidated Operating Reports**

The contractor shall develop a Desk Review protocol for Consolidated Operational Reports filed by licensed group homes for the mentally retarded with the Department of Mental Retardation and utilized by the Department in room and board rate setting (Regulations of Connecticut State Agencies Section §17b-244 CGS, Section §17-313b-5 .). The contractor shall submit the protocol to the Department for review and approval by October 15, 2001.

**2 Rate System**

**a. Rate System Operation**

The contractor shall operate and maintain the Department's Rate System during the term of the contact. The Rate System is defined as the system that is functional on June 30, 2001 and as may be updated and modified as approved by the Department. The system is facility-address-based and menu-driven and is designed to produce rate computation reports (RCR's); standard statistical, financial and expense data reports; facility rate histories, and facility/bed need mapping (MapInfo software). It also contains rate and bed licensure change tracking capabilities and an automated rate tracking and approval component. The Department shall provide the contractor all documentation, files, and programs related to the Rate System.

**b. Rate System Ownership**

The State of Connecticut shall have all ownership rights of all Rate System components which have in any way been created, modified, developed or enhanced by the contractor or any of its employees, agents or subcontractors in the performance of this contract.

**c. Rate System Maintenance**

The contractor shall:

- (1) Provide the server and all proprietary software for the Rate System.
- (2) Provide all routine Rate System maintenance including passwords for new users, addition of annual Cost Reports and CORs and related data, restoration of lost data, and conversion of data from facilities, the Department and other state agencies.
- (3) Back up Rate System data daily.
- (4) Provide the Department with a Rate System data tape or CD on the first business day of each week.
- (5) Maintain Cost Report data for cost year 1986 and forward, and rate history data from July 1, 1989 and forward.
- (6) Maintain Rate System security with restricted access at various levels. Users shall be required to use a personal ID and password to enter the system. When logged on, pre-assigned access rights shall control access to levels of data and database applications including a "view-only" access level.
- (7) Maintain a router to provide connectivity to the Department and other state agency users.
- (8) Modify, enhance, upgrade and/or expand the Rate System as necessary during the term of this Agreement provided such changes require less than 250 hours of the Contractor's billable time per year of this Agreement. The Contractor shall provide an estimate of the necessary computer software program hours required for the proposed Rate System changes within two weeks of notification by the Department to make such changes. Programming changes in that require an excess of 250 hours of the Contractor's billable time per year shall be approved by the Department prior to implementation and added to maximum contract hours by amendment.
- (9) Provide an updated Rate System Data Dictionary and updated industry standard Data System Disaster Recovery Plan to the Department annually on December 31.

**d. System Failure Sanctions**

The Department may impose a financial sanction of \$2,000.00 per day beginning with the first day of continued disrupted connectivity or system operation failure due to failure of the contractor's router or computer systems when the connectivity and/or system operation to DSS is disrupted by more than forty-eight (48) hours.

**3 Rate Computation Reports**

The contractor shall:

**a. Basis**

Produce annual rate year rate computation reports (RCR), based upon applicable Cost Report and COR filings, for nursing facilities, ICF-MRs, residential care facilities, special long term care facilities and group homes for the mentally retarded.



**b. Format**

Generate RCR's and Wage and Benefit Year-to-Year Comparison (WBYC) report or similar wage/benefit analysis if required in a format approved by the Department. Beginning July 1, 2001, the format shall be the same report format the Department approved for the July 1, 2000 through the June 30, 2001 rate period. Thereafter, new rate year RCR's shall be in the formats approved by the Department, including the Wage and Benefit Year-to-Year Comparison (WBYC) report for nursing facilities.

**c. Deadline**

Produce such RCR's by June 20 of each year for facilities with timely Cost Report filings and responsive RFI's submitted by February 15 unless there are legislative or regulatory rate-setting changes or a revised schedule is mutually agreed to by the Contractor and Department.

**d. Annual Rates List**

Provide a summary listing of annual rates by licensure category indicating the prior and new rate year rates and percent increases. Such listing shall be updated as RCR's are produced and provided to the Department.

**e. Revised RCRs**

Produce revised RCR's to implement rate changes for all affected rate periods associated with field audits, interim rate replacements, revised filings by facilities, appeal settlements, special analyzes for fraud and abuse, "what-if" rate analysis, and for other purposes requested by the Department

**f. Priority**

Produce RCR's based on the prioritization determined by the Department and in no event shall a RCR be delayed for more than seventy five days without Department approval.

**g. Department Responsibilities**

The Department shall review RCRs for conformance with applicable statutes, regulations and allowable cost policies.

**4 Cost Report and COR Field Audits**

**a. Audit Planning**

The contractor shall:

- (1) Assist the Department in identifying facilities to be audited and the audit scope to be utilized.
- (2) Propose to the Department a priority listing of approximately 150 field audits to be conducted during the contract year by July 31, 2001, and by February 15 annually thereafter. The Department shall review, modify and approve such audit plan priority listing within two weeks of submission.
- (3) Assist the Department's Office of Quality Assurance with the annual review and



development of the Field Audit Review Programs and Field Audit Manuals as required by the Department.

- (4) Develop by December 31, 2001 lap top PC-based audit templates and forms for review and approval by the Department's Quality Assurance Division.

**b. Field Audit Performance**

The contractor shall

- (1) Utilize procedures as outlined in the Department's Field Audit Review Programs in conducting approximately 150 field audits annually
- (2) Review prior audits in conducting field audits.
- (2) Maintain appropriate knowledge of applicable statutes and regulations of Connecticut State agencies governing the rate setting based upon Cost Reports and COR's.
- (4) Retain and maintain an adequate number of full-time audit staff, with Cost Report audit experience, to conduct approximately 150 field audits annually
- (5) Conduct audits at the main home offices of facilities, as required by the Department, including those facilities with home offices located out of the state of Connecticut.

**5. Reports and Monitoring-**

The contractor shall:

**a. Meetings**

Arrange monthly meetings, or less frequently as approved by the Department, with the Department's Quality Assurance and Rate Setting staff for the sole purpose of discussing and communicating field audit procedures, scheduling, areas of concern with current audits, review field audit reports and audit report approval.

**b. Status Reports**

Provide the Department with a <sup>written</sup> monthly status report of all open (ongoing and pending) and scheduled audits. Such report shall also be made available by the Contractor through online access to the Rate System.

**c. Ad-hoc and Audit Impact**

Provide the Department ad-hoc, interim, progress, and Audit Impact reports upon request.

**d. Project Management Reporting**

The Director of the Office of CON and Rate Setting from time to time may request various types of management reports that will facilitate the overall project management. The Director of the Office of CON and Rate Setting shall determine the length of reporting periods for such reports. The minimum project management reports shall include the following:

- (1) Progress Reports

management. The Director of the Office of CON and Rate Setting shall determine the length of reporting periods for such reports. The minimum project management reports shall include the following:

**(1) Progress Reports**

The contractor shall submit written progress reports in letter form that contain the following:

- (a) Progress during the past reporting period, including significant accomplishments and/or deliverables reached.
- (b) Problems encountered, scheduled tasks not completed, and solutions arrived at or recommended.
- (c) Anticipated progress for the next reporting period.
- (d) Any actions requested to be taken by the State.
- (e) An updated project schedule, reflecting progress to date.

**(2) Progress Review:**

The Department may, from time to time, request a formal progress review meeting. The Contractor will comply with all such requests. Minutes of such meetings will be the responsibility of the Contractor and will be signed by the Contractor's project manager and a representative of the Department.

**6. Training/Customer Service-**

The contractor shall:

**a. Audit Procedure Meetings**

Conduct semi-annual audit procedure update meetings to include Contractor and Department audit staff and management.

**b. Training Seminar**

Conduct at least a one day/eight (8) hour training seminar annually for Contractor and Department audit staff.

**c. Field Audit Presentation**

Conduct, in collaboration with Department audit managers, an annual presentation on field audits for Cost Report and COR preparers.

**d. Survey**

Provide each audited facility an Audit Feedback Survey at audit completion. The proposed survey shall be presented to the Department for review and approval by July 31, 2001. All completed surveys shall be available for review by the Department.

**7. Automation of Audit and Analytical Reports**

The contractor shall allocate up to 800 hours annually, for the term of the contract, for the generation of special analytical reports to identify facility costs and cost

increases/decreases outside of ranges determined or considered to be reasonable by the Department and the Contractor.

## **8. Other Duties and Responsibilities-**

The contractor shall:

### **a. Appeals**

Assist the Department with administrative appeals pertaining to field audits.

### **b. Program Review**

Assist the Department in reviewing programs and performing audits for management companies, FQHCs, Wage, Benefit and Staffing Enhancement, major capital projects approved by a Certificate of Need, Community Living Arrangement capitalization reports, and other cost-based rates.

### **c. Joint Field Audits**

Conduct field audits, as required by the Department, jointly with Department's Quality Assurance staff.

### **d. CPA Requirement**

Issue all audit reports professionally by a licensed Certified Public Accountant.

### **e. Accounting, Consulting and Provider Relations**

The contractor shall

- (1) Provide professional accounting and consulting services related to rate setting and auditing.
- (2) Provide special analyses of potential rate setting changes including assessments of the impact of rate setting changes on state costs.
- (3) Assist the Department in responding to requests from facility management, accounting, and legal representatives concerning issued rates.

## **9. Key Personnel**

The key personnel referred to below may develop unique knowledge and experience with the States' reimbursement system for long-term care facilities and unique experiences with the operations performed by the Contractor on behalf of the Department.

The contractor shall make key personnel available to the Department to assist in any aspect in any conversion if any becomes necessary at the end of the term of this contract from contractor to a successor contractor. If the contractor wishes to propose a substitute for any key personnel, it must demonstrate to the satisfaction of the Department that the person has equal ability, qualifications and familiarity with the operations performed by the contractor on behalf of the Department so that the substitution will not hamper the transition. The Department will be the sole and ultimate arbiter of whether the substitution is satisfactory.

The following are key personnel for purposes of this contract:

- a. Craig J. Lubitski as Project Director will preside over the complete operation, authorizing immediate staffing and business decisions for this contract. Mr. Lubitski has the ultimate responsibility to ensure the contractual obligations to the State.
- b. Kathy L. R. Kabrick as Project Support Manager will divide her time between the Field Audit of Long-Term Care and Desk Review activities. She will monitor and assess the contract utilization and administration staff. Ms. Kabrick will be responsible to foster the interaction between the Department, and Field Audit and Desk Review processes. Ms. Kabrick has the ultimate responsibility to maintain the contract administration and human resources functions under this contract.
- c. Mark J. MacKenn as Project Manager for the Field Audit of Long-Term Care project will be responsible for the daily supervision of the audit process. He will monitor the status and provide necessary assistance with all nursing home audits. Mr. MacKenn has the ultimate responsibility to confirm that all audits have been completed in compliance with the programs provided by the Department.

Key Personnel	Field Audit hours *	Desk Review – hours *
Craig J. Lubitski	1,100	1,000
Kathy L. R. Kabrick	600	600
Mark J. MacKenn	2000	0

\* Hours listed are total hours annually for the term of the contract.

#### **10. Transition**

The contractor shall take full control and custody of all catalogued or inventoried work papers and documents associated with audits and Desk Reviews performed by the prior contractor, Ernst and Young, LLP, excluding billing documents under the predecessor contract PSA 218-6100. Possession and responsibility for control and custody will take place on the exchange of a signed document acknowledging the transfer of custody of catalogued documents or files at the termination of the contract with Ernst and Young, LLP, PSA 218-6100, and with the full agreement by Ernst and Young, LLP.

##### **a. Transition Assistance**

Assist in the transition process of any subsequent vendor as stated in the Part 2 Section 7.4 of this contract.

##### **b. Participation in Hearings after Termination and Appearances of Personnel to Assist with Litigation**

Provide Key Personnel for administrative hearings, arbitration hearings or at hearings at various courts regarding the work performed under this contract, for as many hours as the Department, at its option, chooses to utilize the personnel after the term of this contract. In the event that proceedings require the presence of someone other than the key personnel, who is or was an employee of the contractor

at the time the work in question was performed, the contractor shall make available any required individual who is a current employee. The contractor also shall use its best efforts to locate any former employee whose presence is required and to assist the Department in making arrangements to have said individual appear.

Compensation for any additional contractor assistance under this section shall be negotiated between the parties at the time the Department chooses to utilize the contractor's personnel and subject to formal contract amendment unless this contract has terminated in which case a separate contract shall be negotiated.

**c. Rate Calculations and Desk Reviews**

Conclude the calculation of rates as requested by the Department for those facilities whose rate calculations were begun before the expiration of the contract. The conclusion of all rate calculations shall not exceed three months after the termination of the contract. Compensation for the conclusion of rate calculations shall be made at the hourly rate in effect for the last contract period prior to termination and subject to formal contract amendment unless this contract has terminated in which case a separate contract shall be negotiated.

**Section 3.0 Department Responsibilities**

The Department shall:

- 1 Provide the final interpretation of the regulations affecting cost-based rate setting.
- 2 Provide the contractor with updates and changes, which alter the regulations affecting Medicaid reimbursement.
- 3 Provide audit guidance to the contractor when intent or fraud is suspected.
- 4 Provide assistance when the contractor exhausts all avenues when dealing with an uncooperative provider.



## **Part Four**

### **COST AND INVOICING**

#### **SECTION 1.0 INVOICE AND PAYMENT PROCESS**

**1 The Department shall**

- a. Pay for actual hours worked, however, the maximum payment for the performance of all duties under this contract shall not exceed the contract amount.
- b. Withhold payments until the rate promulgation system and all related system programs are fully functional.
- c. Withhold payments for desk review each year until the Department approves the then current Desk Review Protocol submitted by the contractor. The Department shall provide adequate review within seven days of the receipt of the Desk Review Protocol and when the Desk Review Protocol is not acceptable, the Department shall provide the Contractor an additional fifteen days to correct the Desk Review Protocol.
- d. Reserve its right to examine the above records at any time during normal working hours.
- e. Reimburse the contractor for actual connectivity costs not to exceed \$5,000 related to any state decision to relocate the current data center.

**2. The contractor shall:**

- a. Establish a fully functional rate promulgation system and all related system programs before submitting invoices for actual time worked.
- b. Submit monthly invoices to the Department for actual hours worked.
- c. Submit with the invoices certification statements signed by an official of the contractor with legal authority to bind the contractor that the hours billed represent actual hours worked as supported by time and attendance records maintained by the contractor.
- d. Separate all invoices for Title XIX participating and nonparticipating facilities.
- e. Maintain time and attendance records in a manner consistent with the billing requirements stated herein.

#### **SECTION 2.0 PAYMENT RATES**

The Department will pay the contractor all-inclusive hourly rates based on the actual number of hours worked according to the following schedule and actual connectivity costs incurred:

	Desk Review (16,500 hours/yr)				Audit (20,000 hours/yr)				Total
<b>Year 1</b>	\$ 78.00		\$ 1,287,000		\$ 69.00	\$ 1,380,000			\$ 2,667,000
<b>Year 2</b>	\$ 80.34		\$ 1,325,610		\$ 71.50	\$ 1,430,000			\$ 2,755,610
<b>Year 3</b>	\$ 82.75		\$ 1,365,375		\$ 74.00	\$ 1,480,000			\$ 2,845,375
<b>Year 4</b>	\$ 85.23		\$ 1,406,295		\$ 77.00	\$ 1,540,000			\$ 2,946,295
<b>Year 5</b>	\$ 87.79		\$ 1,448,535		\$ 80.00	\$ 1,600,000			\$ 3,048,535
			\$ 6,832,815			\$ 7,430,000			\$ 14,262,815

In the event the Department elects to exercise its one year options to extend the contract, the rates shall not exceed the rates listed below:

<b>Year 6</b>	\$ 90.42		\$ 1,491,930		\$ 84.00	\$ 1,680,000		\$ 3,171,930
<b>Year 7</b>	\$ 93.14		\$ 1,536,810		\$ 88.00	\$ 1,760,000		\$ 3,296,810
								\$ -
			\$ 9,861,555			\$10,870,000		\$ 20,731,555

### **SECTION 3.0 Time**


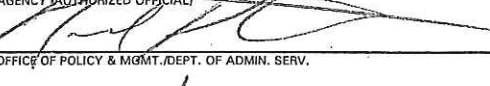

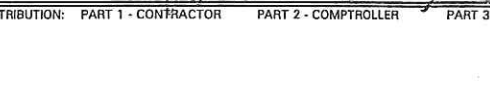
The number of hours required to complete the tasks covered by this agreement shall be negotiated and agreed upon by the Department and the Contractor prior to the start of work, however, the total number of hours shall not exceed 16,500 for Desk Review and 20,000 for Field Audit. If during the performance of the tasks, the Contractor determines that the agreed upon number of hours to complete the task is insufficient, then the Contractor and the Department shall follow the procedures promulgated in "Notification of Claims."

### **SECTION 4.0 Maximum Cost**

The maximum allowable cost for the five-year term of this contract shall not exceed \$6,832,815 for Desk Reviews and \$7,430,000 for Field Audits and \$5,000 for connectivity for a total of \$14,267,815. An additional \$1,491,930 for Desk Review and \$1,680,000 for Field Audits may be added to the contract should the Department exercise its option to renew this contract for one year. Also, an additional \$1,536,810 for Desk Review and \$1,760,000 for Field Audits may be added to the contract should the Department exercise its second option to renew this contract for one year.

1. PREPARE IN QUINTUPPLICATE.  
 2. THE STATE AGENCY AND THE CONTRACTOR AS LISTED BELOW HEREIN ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO AND SUBJECT TO THE PROVISIONS OF SECTION 4-98 OF THE CONNECTICUT GENERAL STATUTES AS APPLICABLE.  
 3. ACCEPTANCE OF THIS CONTRACT IMPLIES CONFORMANCE WITH TERMS AND CONDITIONS ON PAGE 2.

012551201 RH

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 2		(2) IDENTIFICATION NO. P.S 1246-6100	
(3) CONTRACTOR NAME <b>Craig J. Lubitski Consulting, LLC</b>		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
CONTRACTOR ADDRESS <b>290 Roberts Street, Suite 303, East Hartford, CT 06108</b>		CONTRACTOR FEIN/SSN <b>061591019</b>	
(5) AGENCY NAME AND ADDRESS <b>Department of Social Services, 25 Sigourney Street, Hartford, CT 06106</b>		(6) AGENCY NO. <b>6100</b>	
(7) DATE (FROM) <b>7/1/2001</b>	THROUGH (TO) <b>6/30/2006</b>	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD NO. <input type="checkbox"/>	
(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. <b>30 days</b>		(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)  Contract number 12466100 and amendment one are hereby further amended. Part Four Section 3.0 Time is amended to reduce the annual time allotted for year two. The total number of hours shall not exceed 15,675 for Desk Review and Field Audit shall not exceed 19,000.  The reduction is due to budgetary constraints for State Fiscal Year 2003.  All other terms and conditions not amended herein shall remain in full force and effect.	
(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES. <b>This amendment reduces the contract maximum by \$137,780.00 from \$ 14,267,815.00 to \$ 14,130,035.00 for a new contract maximum of \$ 14,130,035.00 for the duration of the contract through 6/30/2006.</b>			
(12) ACT CD <b>C</b>	(14) COM TYP <b>AA</b>	(15) LSE. TYP. <b>PS</b>	(16) ORIG. AGCY <b>6100</b>
(17) DOCUMENT NO. <b>0212466100</b>	(18) COMMIT AGCY <b>6100</b>	(19) COMMIT. NO. <b>12466100</b>	(20) VENDOR FEIN/SSN - SUFFIX <b>06-1591019-01</b>
(21) COMMITTED AMOUNT <b>\$ 0.00</b>		(22) OBLIGATED AMOUNT <b>\$-137,780.00</b>	
(23) CONTRACT PERIOD (FROM/TO) <b>7/1/2001 - 6/30/2006</b>			
(24) ACT CD <b>C</b>	(25) COMM. LINE NO. <b>1</b>	(26) COMMITTED AMOUNT <b>\$0.00</b>	(27) COMM AGCY. <b>6100</b>
(28) COST CENTER <b>0</b>	(29) OBJECTIVE <b>002</b>	(30) AGENCY TAIL <b>02230</b>	(31) EXTENSION <b>3111</b>
(32) FUNCTION <b>0</b>	(33) ACTIVITY <b>0</b>	(34) STATUTORY AUTHORITY C.G.S. 17b-244, 17b-340, 4-8, 17b-3	(35) DATE <b>12-19-02</b>
(36) TITLE <b>Member</b>	(37) DATE <b>12/19/02</b>		
(38) TITLE <b>Michael P. Starkowski, Deputy Commissioner</b>	(39) DATE <b>12/19/02</b>		
(40) TITLE <b>Assoc. Atty. General</b>	(41) DATE <b>1/15/03</b>		
(42) ACCEPTANCE AND APPROVALS			
(43) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 			
(44) AGENCY AUTHORIZED OFFICIAL 			
(45) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV. 			
(46) ATTORNEY GENERAL (APPROVED AS TO FORM) 			





CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

CORE CT CONTRACT #01DSS1201QH

1. THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S. AS APPLICABLE

COMPLETE  
DESCRIPTION  
OF SERVICE

Contract number PSA #12466100 (Core Ct Number 01DSS1201QH) as amended by amendments 1 and 2 is hereby amended in accordance with the provisions of this amendment as it continues on pages 2 through 12.

All terms and conditions of the original contract as amended by amendments one and two not amended herein remain in full force and effect.

NOV 30 2004

RECEIVED

<p>11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.</p>	<p>RECEIVED</p>
<p>COST AND SCHEDULE OF PAYMENT</p>	<p>The maximum contract value for the term of this contract remains unchanged at \$14,130,035.00. Payment terms for this contract are set forth in Part Four Sections One through Four on pages 10 through 12 of this amendment.</p>

(12) ACT CD C	(13) DOC TYP AA	(14) COM TYP PS	(15) LSE TYP	(16) ORIG AGCY DSS6000	(17) DOCUMENT NO. 0312466100	(18) COMMIT AGCY DSS6000	(19) COMMIT NO. 12466100	(20) VENDOR FEIN/SSN - SUFFIX 06-1591019-01
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(21) COMMITTED AMOUNT	(22) OBLIGATED AMOUNT	(23) CONTRACT PERIOD (FROM/TO) 07/01/2001 – 06/30/2006
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[illegible]

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, Federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		STATUTORY AUTHORITY §§ 4-8, 17b-3	
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)		TITLE	DATE
		Member	11/24/04
(36) AGENCY (AUTHORIZED OFFICIAL)		TITLE	DATE
		Michael P. Starkowski, Deputy Commissioner	11/30/04
(37) OFFICE OF POLICY & MGMT., DEPT. OF ADMIN. SERV.		TITLE	DATE
(1) ATTORNEY GENERAL (APPROVED AS TO FORM)			DATE
		Assoc. Atty. General	12/22/04

DISTRIBUTION: PART 1 - CONTRACTOR PART 2 - COMPTROLLER PART 3 - OPM/DAS PART 4 - ATTORNEY GENERAL - PART 5 - AGENCY

1. Part 2, Section 1.9 on page 6 of Amendment 1 is deleted in its entirety and replaced with the following:

**1.9 NOTICES**

Wherever under this contract one party is required to give notice to the other, such notice shall be deemed given upon delivery, if delivered by hand (in which case assigned receipt will be obtained), or three (3) days after posting if sent by registered or certified mail, return receipt requested.

Notices shall be addressed as follows:

Notices and payments to the contractor shall be directed to:

Craig J. Lubitski  
Craig J. Lubitski Consulting LLC  
290 Roberts Street, Suite 300  
East Hartford, CT 06108  
[Craig.lubitski@cjl.com](mailto:Craig.lubitski@cjl.com)  
[Kathy.kabrick@cjl.com](mailto:Kathy.kabrick@cjl.com)

Notices to the Department for performance issues shall be directed to:

Gary Richter  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106  
[Gary.richter@po.state.ct.us](mailto:Gary.richter@po.state.ct.us)

Notices to the Department regarding contractual issues shall be directed to:

Kathleen M. Brennan  
Department of Social Services  
25 Sigourney Street  
Hartford, CT 06106  
[Kathleen.brennan@po.state.ct.us](mailto:Kathleen.brennan@po.state.ct.us)

Said notices shall become effective on the date of receipt or the date specified in the notice, whichever comes later. Either party may change its address for notification purposes by mailing a notice stating the change and setting forth the new address, which shall be effective on the tenth (10th) day following receipt.

2. Part 2, as amended by amendment 1 is hereby further amended with the addition of a new section 10:

**10.0 HIPAA Provisions**

**(a.)** The Contactor, as a Business Associate under HIPAA, must comply with all terms and conditions of this Section of the Contract.

**(b.)** The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the contract in accordance "with all applicable federal and state law regarding confidentiality, which includes but is not limited to the requirements of the Health Insurance Portability and Privacy Act of 1996 ("HIPAA"), more specifically with the Privacy Rule at 45 C.F.R. Part 160 and Part 164, subparts A and E; and

- (c.) The Connecticut Department of Social Services (hereinafter “**DSS**”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; *and*
- (d.) The Contractor, on behalf of **DSS**, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; *and*
- (e.) The Contractor is a “business associate” of **DSS**, as that term is defined in 45 C.F.R. § 160.103; *and*
- (f.) The Contractor and **DSS** agree to the following in order to secure compliance with the Health Insurance Portability and Privacy Act of 1996 (“HIPAA”), more specifically with the Privacy Rule at 45 C.F.R. Part 160 and Part 164, subparts A and E:

## I. Definitions

- A. Business Associate.** “Business Associate” shall mean the Contractor.
- B. Covered Entity.** “Covered Entity” shall mean **DSS**.
- C. Designated Record Set.** “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
- D. Individual.** “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. 164.501 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- E. Privacy Rule.** “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
- F. Protected Health Information.** “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 164.501, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- G. Required by Law.** “Required by Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.501.
- H. Secretary.** “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- I. More Stringent.** “More stringent” shall have the same meaning as the term “more stringent” in 45 C.F.R. § 160.103.
- J. Section of Contract.** “This Section of the Contract” refers to the HIPAA Provisions stated herein, in their entirety.

## II. Obligations and Activities of Business Associate



- A.** Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
- B.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
- C.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
- D.** Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract of which it becomes aware.
- E.** Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- F.** Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- G.** Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- H.** Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- I.** Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- J.** Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- K.** Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.

**III. Permitted Uses and Disclosures by Business Associate**

**A. General Use and Disclosure Provisions:** Except as otherwise limited in this Addendum, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

**B. Specific Use and Disclosure Provisions:**

1. Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2. Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 154.514(e)(2)(i)(B).

**IV. Obligations of Covered Entity**

**A.** Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

**B.** Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

**C.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**V. Permissible Requests by Covered Entity**

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Addendum.

**VI. Term and Termination**



**A. Term.** The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

**B. Termination for Cause.** Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
2. Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

**C. Effect of Termination.**

1. Except as provided in paragraph (2) of this subsection C, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

## **VII. Miscellaneous Provisions**

**A. Regulatory References.** A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.

**B. Amendment.** The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to

comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

**C. Survival.** The respective rights and obligations of Business Associate under Section VI, Subsection C of this Section of the Contract shall survive the termination of this Contract.

**D. Effect on Contract.** Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the contract shall remain in force and effect.

**E. Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.

**F. Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI pursuant to paragraph II D of this Addendum. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

**G. Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract.

3. Part 3 Section 4 on pages 24 and 25 of Amendment One is deleted in its entirety and replaced with the following:

**4. Cost Report and COR Field Audits**

**a. Audit Planning**

The contractor shall:

- (1) By February 28 of each calendar year of this contract, present to the Department a proposed Annual Audit Plan (AAP). The AAP shall list facility audits, by licensure category, for which contract hours will be used during the next fiscal year inclusive of audits in process to be completed in the next fiscal year and those proposed to be started during the fiscal year. The AAP shall include the planned audit scope to be utilized for each audit, estimated hours per audit and the projected audit completion date for audits in process. The AAP shall also include the projected

number of new audits to be completed during the fiscal year by facility licensure category and audit scope. The Department shall, upon receipt of the annual AAP review and modify the same. The Department shall, on an annual basis, review, modify and approve the AAP by April 30 of each year.

- (2) Assist the Department's Office of Quality Assurance with the annual review and development of the Field Audit Review Programs and Field Audit Manuals as required by the Department.

**b. Field Audit Performance**

The contractor shall:

- (1) Utilize procedures as outlined in the Department's Field Audit Review Programs in conducting the audits listed in the approved AAP.
- (2) Review prior audits in conducting field audits.
- (3) Maintain appropriate knowledge of applicable statutes and regulations of Connecticut State agencies governing the rate setting based upon Cost Reports and COR's.
- (4) Retain and maintain an adequate number of full-time audit staff and management structure, with Cost Report audit experience, to conduct the audits listed in the approved AAP.
- (5) Conduct audits at the main home offices of facilities, as required by the Department, including those facilities with home offices located out of the state of Connecticut.

4. Part 3 Section 5 on pages 25 and 26 of Amendment One is deleted in its entirety and replaced with the following:

**5. Reports and Monitoring-**

The contractor shall:

**a. Meetings**

- (i) Arrange monthly meetings, or less frequently as approved by the Department, with the Department's Quality Assurance and Rate Setting staff for the purpose of discussing and communicating field audit procedures, scheduling, variances between projected and actual hours, areas of concern with current audits, review field audit reports and audit report approval.
- (ii) Arrange quarterly meetings (October, January, April and July) with the Department's Directors of Quality Assurance and CON and Rate Setting for the purpose of discussing the Annual Audit Plan (AAP), including a status report on achieving the goals of the Plan and the need to make any revisions to the approved AAP.

**b. Status Reports**

Provide the Department with a monthly status report of all open (ongoing and pending) and scheduled audits. Such report shall also be made available by the Contractor through online access to the Rate System.

**c. Ad-hoc and Audit Impact**

Provide the Department ad-hoc, interim, progress, and Audit Impact reports upon request.

**d. Project Management Reporting**

The Director of the Office of CON and Rate Setting from time to time may request various types of management reports that will facilitate the overall project management. The Director of the Office of CON and Rate Setting shall determine the length of reporting periods for such reports. The minimum project management reports shall include the following:

**(1) Progress Reports**

The contractor shall submit written progress reports in letter form that contain the following:

- (a) Progress during the past reporting period, including significant accomplishments and/or deliverables reached.
- (b) Problems encountered, scheduled tasks not completed, and solutions arrived at or recommended.
- (c) Anticipated progress for the next reporting period.
- (d) Any actions requested to be taken by the State.
- (e) An updated project schedule, reflecting progress to date.

**(2) Progress Review:**

The Department may, from time to time, request a formal progress review meeting. The Contractor will comply with all such requests. Minutes of such meetings will be the responsibility of the Contractor and will be signed by the Contractor's project manager and a representative of the Department.

**e. Annual Audit Plan Changes**

Within fourteen (14) working days following a quarterly meeting noted in Section 5 a II above, the contractor shall submit for approval to the Department's Directors of Quality Assurance and CON and Rate Setting any changes in the Annual Audit Plan (AAP). The Department's Directors of Quality Assurance and CON and Rate Setting shall review and approve such changes to the AAP within ten (10) working days of the Department's receipt of the proposed changes from the contractor.



5. The listing of hours set forth in Part 3 section 9 on page 28 of amendment one is deleted in its entirety and replaced with the following:

Key Personnel	Field Audit hours *	Desk Review – hours *
Craig J. Lubitski	1,100	1,000
Kathy L. R. Kabrick	300	900
Mark J. MacKenn	2000	0

\* Hours listed are approximate total hours annually for the term of the contract. Any major deviation (defined as over 200 hours) from the hours listed must be approved by the Department within ten (10) working days from the Department's receipt, from the Contractor, of a notice concerning the deviation from the hours listed.

6. Part Four Sections 1 through 4 on pages 30 and 31 of Amendment One are deleted in their entirety and replaced with the following:

#### **SECTION 1.0 INVOICE AND PAYMENT PROCESS**

- 1 The Department shall
  - a. Pay for actual hours worked, however, the maximum payment for the performance of all duties under this contract shall not exceed the contract amount.
  - b. Withhold payments until the rate promulgation system and all related system programs are fully functional.
  - c. Withhold payments for desk review each year until the Department approves the then current Desk Review Protocol submitted by the contractor. The Department shall provide adequate review within seven days of the receipt of the Desk Review Protocol and when the Desk Review Protocol is not acceptable, the Department shall provide the Contractor an additional fifteen days to correct the Desk Review Protocol.
  - d. Effective with field audit hours (for ongoing and new audits) charged on and after July 1, 2003, withhold 10% of amounts billed for hours associated with audits in progress until the final audit report is issued to the Department's Director of CON and Rate Setting. The 10% withhold shall be released if the Department terminates an audit before completion due to facility bankruptcy, closure or other reason.



- e. Reserve its right to examine the above records at any time during normal working hours.
  - f. Reimburse the contractor for actual connectivity costs not to exceed \$5,000 related to any state decision to relocate the current data center.
2. The contractor shall:
- a. Establish a fully functional rate promulgation system and all related system programs before submitting invoices for actual time worked.
  - b. Submit monthly invoices to the Department for actual hours worked as adjusted for the 10% withhold for audits in progress in accordance with Part Four Section 1 d.
  - c. Submit with the invoices certification statements signed by an official of the contractor with legal authority to bind the contractor that the hours billed represent actual hours worked as supported by time and attendance records maintained by the contractor.
  - d. Separate all invoices for Title XIX participating and nonparticipating facilities.
  - e. Maintain time and attendance records in a manner consistent with the billing requirements stated herein.

## SECTION 2.0 PAYMENT RATES

The Department will pay the contractor all-inclusive hourly rates based on the actual number of hours worked according to the following schedule and actual connectivity costs incurred:

	Desk Review (16,500 hours/yr)				Audit (20,000 hours/yr)			Total
Year 1	\$ 78.00		\$ 1,287,000		\$ 69.00	\$ 1,380,000		\$ 2,667,000
Year 2	\$ 80.34		\$ 1,325,610		\$ 71.50	\$ 1,430,000		\$ 2,755,610
Year 3	\$ 82.75		\$ 1,365,375		\$ 74.00	\$ 1,480,000		\$ 2,845,375
Year 4	\$ 85.23		\$ 1,406,295		\$ 77.00	\$ 1,540,000		\$ 2,946,295
Year 5	\$ 87.79		\$ 1,448,535		\$ 80.00	\$ 1,600,000		\$ 3,048,535
			\$ 6,832,815			\$ 7,430,000		\$ 14,262,815

In the event the Department elects to exercise its one year options to extend the contract, the rates shall not exceed the rates listed below:

Year 6	\$ 90.42		\$ 1,491,930		\$ 84.00	\$ 1,680,000		\$ 3,171,930
Year 7	\$ 93.14		\$ 1,536,810		\$ 88.00	\$ 1,760,000		\$ 3,296,810
								\$ -
			\$ 9,861,555			\$10,870,000		\$ 20,731,555

### **SECTION 3.0      Time**

The number of hours required to complete the tasks covered by this agreement shall be negotiated and agreed upon by the Department and the Contractor prior to the start of work, however, unless unused hours from prior years are available and approved for use by the Department, the total number of hours for each year of this contract, defined as July 1 through June 30, shall not exceed 16,500 for Desk Review (of which up to 500 hours may be used for assigned information requests, training, special analyses or other related projects) and 20,000 for Field Audit. If during the performance of the tasks, the Contractor determines that the agreed upon number of hours to complete the task is insufficient, then the Contractor and the Department shall follow the procedures promulgated in "Claim Notification."

### **SECTION 4.0      Maximum Cost**

The maximum allowable cost for the five-year term of this contract shall not exceed \$6,766,535 for Desk Reviews and \$7,358,500 for Field Audits and \$5,000 for connectivity for a total of \$14,130,035. An additional \$1,491,930 for Desk Review and \$1,680,000 for Field Audits may be added to the contract should the Department exercise its option to renew this contract for one year. Also, an additional \$1,536,810 for Desk Review and \$1,760,000 for Field Audits may be added to the contract should the Department exercise its second option to renew this contract for one year.

# Craig J. Lubitski Consulting LLC

## State of Connecticut Department of Social Services Contract

State Contract # 12466100

Exception	Contract Year	Date	Name of Recipient	Reasoning	Description of Item	Value
1-79 (e) - 12	7/1/2003-6/30/2004	5/6/2003	Joel Riklin's Retirement Reception	Joel Riklin's Retirement Party tickets for (3) of CJLC's Employees to Attend Dinner	Dinner, Reception & Gift Included in Ticket Price. Cost of \$75 / (3) CJLC Employees = \$25 Per Person	\$ 75.00
1-79 (e) - 12		1/17/2003	Gary Richter's Mother	Death of Family Member	Flowers to Funeral Home	85.85
1-79 (e) - 12		1/17/2003	Gary Richter's Family	Death of Family Member	Flowers to Residence	81.90
1-79 (e) - 12		10/22/2003	Jim Wietrek	Accident / Surgery	Gift Basket	60.98
1-79 (e) - 12	7/1/2004-12/31/2004	2/20/2004	Jim Wietrek	Accident / Surgery	Gift Basket	\$ 65.98
1-79 (e) - 12		3/1/2004	Theresa Messner	Baby Shower Lucheon	Lunch & Gift Included in Ticket Price. Cost of \$30 / (3) CJLC Employees = \$10 Per Person	30.00
1-79 (e) - 12		4/21/2004	Theresa Messner	Birth of Child	Gift Basket	62.37





PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT  
CO-8C?A REV. 3/98 (Stock No. 693B-170-01)

Print or Type

OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION

1. THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

CORECT #01DSS1201QH

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> 4	(2) IDENTIFICATION NO. PS 12466100
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CONTRACTOR	(3) CONTRACTOR NAME CRAIG J. LUBITSKI CONSULTING, LLC	(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
	CONTRACTOR ADDRESS 290 Roberts Street, Suite 300, East Hartford, CT 06108	CONTRACTOR FEIN/SSN 061591019
STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	(6) AGENCY NO. DSS6000

CONTRACT PERIOD	(7) DATE (FROM) 07/01/01	THROUGH (TO) 06/30/07	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER <input checked="" type="checkbox"/>
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CANCELLATION CLAUSE	THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	(9) REQUIRED NO. OF DAYS WRITTEN NOTICE. 30 Days
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COMPLETE DESCRIPTION OF SERVICE	(10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.) CONTRACT #12466100 AS AMENDED BY AMENDMENTS 1, 2 AND 3 IS HEREBY FURTHER AMENDED. THE CONTRACTOR SHALL PERFORM ADDITIONAL USER FEE AND RATE SETTING ACTIVITIES IN RESPONSE TO THE IMPLEMENTATION OF PA 05-251 AND 05-280 THAT BECAME EFFECTIVE 7/1/05 AS MORE FULLY DESCRIBED ON PAGES 2 THROUGH 4 OF THIS AMENDMENT.  THE CONTRACT SHALL BE EXTENDED FOR ONE OF TWO OPTIONS YEARS IN ACCORDANCE WITH PART 2 SECTION 1.2 OF THE ORIGINAL CONTRACT  ALL TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AS PREVIOUSLY AMENDED BY AMENDMENTS 1, 2 AND 3 AND NOT AMENDED HEREIN REMAIN IN FULL FORCE AND EFFECT.
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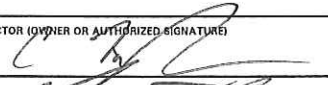
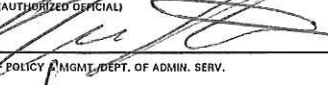

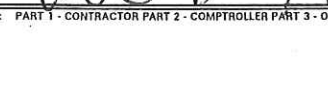
COST AND SCHEDULE OF PAYMENT	(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.  THE MAXIMUM DOLLAR VALUE OF THIS CONTRACT IS INCREASED BY \$3,709,090.00 FROM \$14,130,035.00 TO A NEW MAXIMUM AMOUNT NOT TO EXCEED \$17,839,125.00. PAYMENTS TO THE CONTRACTOR SHALL BE MADE IN ACCORDANCE WITH THE REVISED PAYMENT RATES ON PAGE 3 OF THIS AMENDMENT.
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(12) ACT CD	(13) DOC TYP	(14) COM TY P	(15) LSE. TYP.	(16) ORIG. AGCY DSS6000	(17) DOCUMENT NO. 12466100	(18) COMMIT AGCY DSS6000	(19) COMMIT. NO. 12466100	(20) VENDOR FEIN/SSN - SUFFIX 061591019
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(21) COMMITTED AMOUNT	(22) OBLIGATED AMOUNT	(23) CONTRACT PERIOD (FROM/TO) 07/01/2001 - 06/30/2007
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(24) Line No.	(25) Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Chart 1	(32) Chart 2	(33) Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		(34) STATUTORY AUTHORITY § 54- 8, 17b-3
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 	TITLE Member	DATE 5/25/06
(36) AGENCY (AUTHORIZED OFFICIAL) 	TITLE Michael P. Starkowski, Deputy Commissioner	DATE 6/10/05
(37) OFFICE OF POLICY MGMT. DEPT. OF ADMIN. SERV. 	TITLE	DATE
(38) ATTORNEY GENERAL APPROVED AS TO FORM 	TITLE ASSOC. ATTY. GENERAL	DATE 7/12/06

Continued from Page 1.

1. In response to Public Acts 05-251 and 05-280 regarding nursing home user fee and Medicaid rate setting provisions that became effective on July 1, 2005 and the increase in group homes for the mentally retarded, the Department requires the Contractor to perform additional field audit and desk review hours. The Department, through a separate agreement with the Department of Revenue Services (DRS), is responsible for identifying nursing home user fee over and under payments reported to DRS. Through this amendment, the Contractor shall perform an additional 5,000 Nursing Facility (NF) User Fee Payment audit hours effective July 1, 2005 through June 30, 2007 to assure the accuracy of user fee days reported to the DRS. The additional NF User Fee Payment audit hours will be offset by a 200 hour reduction in group home field audits for a net increase of 300 additional hours in contract year 5 and 4,800 additional hours in contract year 6 as reflected in the revised payment schedule on page 4 of this amendment. In addition, Desk Review hours will increase by 684 in contract year 5 and 552 in contract year 6 to accommodate additional group home desk reviews and prepare rate changes, user fee computations and NF User Fee Payment variance analyses that are necessary for implementation of Public Acts 05-251 and 05-280.

2. Part 3 Section 2.0 on page 20 of amendment 1 is further amended to add item 1 c. (8) below

**(8) User Fee variance Report**

Within ten business days of receipt of the quarterly listing of user fee days reported by each facility in an Excel format, CJLC shall produce and transmit a User Fee Variance Report (UFVR) to the Office of CON and Rate Setting. The UFVR shall identify the numeric and percentage difference between estimated and reported quarterly user fee days for each facility. The UFVR shall be in an Excel format transmitted via email to the Director of CON and Rate Setting or a designee.

3. Part 3 Section 4.a. on page 7 of Amendment 3 is hereby further amended to add item (3) below:

(3) within 60 days of execution of this contract amendment CJLC shall provide the Director of CON and Rate Setting and Director of Quality Assurance with a proposed User Fee Audit Plan (UFAP). Thereafter CJLC will provide the UFAP by March 1 and September 1 of each year. The UFAP shall list facility audits for which contract hours will be used during the six-month period beginning May 1 or November 1 as applicable. The UFAP shall include the planned audit scope to be utilized for each audit, estimated hours per audit and the projected audit completion date for audits in process. The UFAP shall include the projected number of new audits to be completed during the six-month period by facility and audit scope.

The Department shall review, modify and approve the UFAP within 15 days of receipt.

4. Part 3 Section 4.b. on page 8 of Amendment 3 is hereby further amended to add item (6) below:

(6) Conduct user fee audits per the approved UFAP.

5. **Executive Order No. 7B: State Contracting Standards Board Review :** This contract is subject to Executive Order No. 7B of Governor Jodi M. Rell, promulgated on November 16, 2005. The Parties to this Agreement, as part of the consideration hereof, agree that:

(1.) The State Contracting Standards Board ("the Board") may review this contract and recommend to the state contracting agency termination of the contract for cause. The state contracting agency shall consider the recommendations and act as required or permitted in accordance with the contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state contracting agency and any other affected party in accordance with the notice provisions in the contract no later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means:

- a. a violation of the State Ethics Code (Conn. Gen. Stat. Chapter 10) or Section 4A-100 of the Conn. Gen. Statutes or
- b. wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency.

(2.) For the purposes of this Section, "contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a contract for the sale or purchase of a fee simple interest in real property following transfer of title.

(3.) Effective January 1, 2006, notwithstanding the contract value listed in Conn. Gen. Stat. §§ 4-250 and 4-251, all procurements between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift affidavit requirements of said Sections. Certification by agency officials or employees required by Conn. Gen. Stat. § 4-252 shall not be affected by this Section.

6. Sections 2.0, 3.0 and 4.0 on pages 11 and 12 of Amendment 3 are deleted in their entirety and replaced with the following:

## **SECTION 2.0 PAYMENT RATES**

The Department will pay the Contractor all-inclusive hourly rates based on the actual number of hours worked according to the following schedule and actual connectivity costs incurred:

	Desk Review				Audit				Total
	Rate	Hours	Cost		Rate	Hours	Cost		
Year 1	\$78.00	16,500	\$1,287,000		\$69.00	20,000	\$1,380,000		\$2,667,000
Year 2	\$80.34	15,675	\$1,259,329		\$71.50	19,000	\$1,358,500		\$2,617,829
Year 3	\$82.75	16,500	\$1,365,375		\$74.00	20,000	\$1,480,000		\$2,845,375
Year 4	\$85.23	16,500	\$1,406,295		\$77.00	20,000	\$1,540,000		\$2,946,295
<b>Total</b>		<b>65,175</b>	<b>\$5,317,999</b>			<b>79,000</b>	<b>\$5,758,500</b>		<b>11,076,499.00</b>



<b>SFY 2006 / Contract Year 5</b>							
<b>Desk Review</b>				<b>Field Audit</b>			
Rate	Hours	Cost		Rate	Hours	Cost	Total
\$87.79	17,184	\$1,508,583		\$80.00	20,300	\$1,624,000	\$3,132,583
<b>SFY 2007 / Contract Year 6</b>							
<b>Desk Review</b>				<b>Field Audit</b>			
Rate	Hours	Cost		Rate	Hours	Cost	
\$90.42	17,052	\$1,541,842		\$84.00	24,800	\$2,083,200	\$3,625,042
<b>Total</b>	<b>34,236</b>	<b>\$3,050,425</b>			<b>45,100</b>	<b>\$3,707,200</b>	<b>\$6,757,625</b>
In the event the Department elects to exercise the second of two one-year options to extend the contract, the rates shall not exceed the rates listed below:							
<b>SFY 2008 / Contract Year 7</b>							
<b>Desk Review</b>				<b>Field Audit</b>			
Rate	Hours	Cost		Rate	Hours	Cost	
\$93.14	17,092	\$1,591,949		\$88.00	24,800	\$2,182,400	\$3,774,349

**SECTION 3.0****TIME**

The number of hours required to complete the tasks covered by this agreement shall be negotiated and agreed upon by the Department and the Contractor prior to the start of work, however, unless unused hours from prior years are available and approved for use by the Department, the total number of hours for each year of this contract, defined as July 1 through June 30, shall not exceed 17,184 for Desk Review for fiscal Year 2006 and 17,052 for Desk Review for fiscal year 2007 (of which up to 500 hours may be used for assigned information requests, training, special analyses or other related projects) and 20,300 for field Audit for fiscal year 2006 and 24,800 for Field Audit for fiscal year 2007. If during the performance of the tasks, the Contractor determines that the agreed upon number of hours to complete the task is insufficient, then the Contractor and the Department shall follow the procedures promulgated in "Claim Notification".

**SECTION 4.0 MAXIMUM COSTS**

The Maximum allowable cost for the six-year term of this contract shall not exceed \$8,368,425.00 for Desk Reviews and \$9,465,700.00 for Field Audits and \$5,000 for connectivity for a total of \$17,839,125.00. An Additional \$1,591,949.00 for Desk Review and \$2,182,400.00 for Field Audits may be added to the contract should the Department exercise its option to renew this contract for its second option year of the two-year option.



**CERTIFIED RESOLUTION**  
*For Limited Liability Companies (LLCs)*

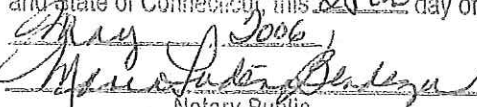
I, Kathy L.R. Kabrick, a Member of Craig J. Lubitski Consulting LLC, a limited liability company organized and existing under the laws of the State of Connecticut (hereinafter the "Company"), hereby certify:

1. that Craig J. Lubitski Consulting LLC is run by Members
2. that Craig J. Lubitski is a member of Craig J. Lubitski Consulting LLC
3. that as such Craig J. Lubitski is not prohibited from or limited by the articles of organization from binding the LLC.

I do further certify Craig J. Lubitski Consulting LLC does not have a Company Seal and that the above statement has not been in anyway altered, amended or repealed and is now in full force and effect.

IN WITNESS HEREOF, the undersigned has affixed his/her signature this twenty-fifth day of May 2006.

  
Kathy L.R. Kabrick  
Member

Subscribed and Sworn to before me, a Notary Public, in and for County of Hartford and State of Connecticut, this 25th day of May, 2006.  
  
Notary Public  
My Commission Expires Oct. 31, 2008





**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

I, THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE

**CORE CT CONTRACT #01DSS1201QH**

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> A5		(2) IDENTIFICATION NO. PS 12466100	
(3) CONTRACTOR NAME <b>CRAIG J. LUBITSKI CONSULTING, LLC</b>		(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> X	
CONTRACTOR ADDRESS <b>225 Pitkin Street, East Hartford, CT 06108</b>		CONTRACTOR FEIN/SSN <b>061591019</b>	
(5) AGENCY NAME AND ADDRESS <b>Department of Social Services, 25 Sigourney Street, Hartford, CT 06106</b>		(6) AGENCY NO. <b>DSS6000</b>	
(7) DATE (FROM) <b>07/01/2001</b>	THROUGH (TO) <b>06/30/2008</b>	(8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER X <input checked="" type="checkbox"/>	
(9) CANCELLATION CLAUSE THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).		(10) REQUIRED NO. OF DAYS WRITTEN NOTICE. <b>30 Days</b>	

<b>COMPLETE DESCRIPTION OF SERVICE</b>	(11) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)	
	<p>Contract number PSA #12466100 (Core Ct Number 01DSS1201QH) as amended by amendments 1, 2, 3 and 4 is hereby amended to extend the contract end date for a period of one-year from June 30, 2007 to June 30, 2008. The Contractor shall continue to provide services in accordance with the terms of the original contract as amended by amendments 1, 2, 3 and 4 and in accordance with the provisions of this amendment 5 as it continues on pages 2 through 4.</p> <p>All terms and conditions of the original contract as amended, not amended herein remain in full force and effect.</p>	

<b>COST AND SCHEDULE OF PAYMENT</b>	(11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.	
	<p>For the continuation of the provision of services the maximum contract value is increased by \$3,774,348.88 from \$17,839,125.00 to \$21,613,473.88. Payment terms for services rendered during the period July 1, 2007 through June 30, 2008 are set forth in paragraph 2 on page 2 of this amendment.</p>	

(12) ACT CD C	(13) DOC TYP AA	(14) COM TY P PS	(15) LSE TYP.	(16) ORIG. AGCY DSS6000	(17) DOCUMENT NO. 0312466100	(18) COMMIT AGCY DSS6000	(19) COMMIT. NO. 12466100	(20) VENDOR FEIN/SSN - SUFFIX 06-1591019-01		
(21) COMMITTED AMOUNT				(22) OBLIGATED AMOUNT		(23) CONTRACT PERIOD (FROM/TO) 07/01/2001 - 06/30/2008				
(24) Line No.	(25) Reference	(26) Fund	(27) Department	(28) Program	(29) SID	(30) Account	(31) Project/Grant	(32) Chart 1	(33) Chart 2	(34) Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

<b>ACCEPTANCE AND APPROVALS</b>		<b>STATUTORY AUTHORITY §§ 4-8, 17b-3</b>	
(35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	TITLE <i>Member</i>	DATE <i>5-18-07</i>	
(36) AGENCY (AUTHORIZED OFFICIAL)	TITLE Michael P. Starkowski, Commissioner	DATE <i>6/4/07</i>	
(37) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV.	TITLE	DATE	
(38) ATTORNEY GENERAL (APPROVED AS TO FORM)	TITLE <i>Assoc. Atty. General</i>	DATE <i>6/24/07</i>	

1. The Contractor shall continue to provide the services set forth in the original contract as amended by amendments 1, 2, 3 and 4 for an additional period of one-year through June 30, 2008.
2. For services provided during the period July 1, 2007 through June 30, 2008 the Department shall pay the Contractor all-inclusive hourly rates based on the actual numbers of hours worked according to the following schedule:

Desk Review:

RATE	HOURS	COST
\$93.14	17,092	\$1,591,948.88

Field Audits:

RATE	HOURS	COST
\$88.00	24,800	\$2,182,400.00

3. Section 1.2 of Part 2 Mandatory Terms and Conditions of the original contract as amendment by amendments 1, 2, 3 and 4 is deleted in its entirety and replaced with the following:

CONTRACT TERM

This contract will be from July 1, 2001 through June 30, 2008.

4. In Section 1.9 of Part 2 Mandatory Terms and Conditions the contact person for notices to the Department regarding contractual issues is changed from Lee Vander Baan to:

Kathleen M. Brennan  
State of Connecticut  
Department of Social Services  
Contract Administration, 9<sup>th</sup> Floor  
25 Sigourney Street  
Hartford, CT 06106  
(860) 424-5693 phone  
(860) 424- 4953 fax  
[kathleen.brennan@ct.gov](mailto:kathleen.brennan@ct.gov) e-mail

5. The following provision replaces Executive Order 7B set forth in paragraph 5 of Amendment 4:

A. Executive Order No. 7C: Contracting Standards Board. This Contract is subject to provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated on July 13, 2006. The Parties to this Contract, as part of the consideration hereof, agree that:

1. The State Contracting Standards Board ("Board") may review this Contract and recommend to the state Contracting agency

termination of this Contract for cause. The State Contracting agency shall consider the recommendations and act as required or permitted in accordance with the Contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state Contracting agency and any other affected party in accordance with the notice provisions in the Contract not later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means: (A) a violation of the State Ethics Code (Chap. 10 of the general statutes) or section 4a-100 of the general statutes or (B) wanton or reckless disregard of any state Contracting and procurement process by any person substantially involved in such Contract or state Contracting agency.

2. For purposes of this Section, "Contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a Contract for the sale or purchase of a fee simple interest in real property following transfer of title.
  3. Notwithstanding the Contract value listed in sections 4-250 and 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1, all State Contracts between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift and campaign contribution certification requirements of section 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1. For purposes of this section, the term "certification" shall include the campaign contribution and annual gift affidavits required by section 8 of Executive Order Number 1.
6. The following provisions are added to the contract's mandatory terms and conditions:
- A. **Government Function; Freedom of Information:** If the amount of this contract exceeds two million five hundred thousand dollars (\$2,500,000) and the contract is for the performance of a governmental function, as that term is defined in Conn. Gen. Stat. Sec. 1-200(11), as amended by Pubic Act 01-169, the Department is entitled to receive a copy of the records and files related to the Contractor's performance of the governmental function and may be disclosed by the Department pursuant to the Freedom of Information Act.

B. **Campaign Contribution Restrictions:** Pursuant to Public Act 07-1, An Act Concerning the State Contractor Contribution Ban and Gifts to State and Quasi-Public Agencies state contractors, prospective contractors, and their principals are prohibited from soliciting or making contributions to state political campaigns. For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the Department certifies that they have provided and the Contractor's authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice (SEEC Form 11) advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.



**PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT**

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

**OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION**

I, THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

**CORE CT CONTRACT #01DSS1201QH**

1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> A6		2) IDENTIFICATION NO. PS 12466100
CONTRACTOR	3) CONTRACTOR NAME <b>CRAIG J. LUBITSKI CONSULTING, LLC</b>	4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> X
	CONTRACTOR ADDRESS <b>225 Pitkin Street, East Hartford, CT 06108</b>	CONTRACTOR FEIN/SSN <b>061591019</b>
STATE AGENCY	5) AGENCY NAME AND ADDRESS <b>Department of Social Services, 25 Sigourney Street, Hartford, CT 06106</b>	
	6) AGENCY NO. <b>DSS6000</b>	
CONTRACT PERIOD	7) DATE (FROM) <b>07/01/2001</b>	THROUGH (TO) <b>12/31/2008</b>
	8) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER X <input checked="" type="checkbox"/> X	
CANCELLATION CLAUSE	9) REQUIRED NO. OF DAYS WRITTEN NOTICE. <b>30 Days</b>	

COMPLETE DESCRIPTION OF SERVICE	10) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)	
	<p>Contract number PSA #12466100 (Core CT Number 01DSS1201QH) as amended by amendments 1, 2, 3, 4 and 5 is hereby amended to extend the contract end date for a period of six months from June 30, 2008 to December 31, 2008. The Contractor shall continue to provide services in accordance with the terms of the original contract as amended by amendments 1, 2, 3, 4 and 5, and in accordance with the provisions of this amendment 6 as it continues on pages 2 through 18.</p> <p>All terms and conditions of the original contract as amended remain in full force and effect.</p>	

COST AND SCHEDULE OF PAYMENT	11) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.	
	<p>For the continuation of the provision of services the maximum contract value is increased by \$1,887,174.00 from \$21,613,473.88 to \$23,500,648.00. Payment terms for services rendered during the period July 1, 2008 through December 31, 2008 are set forth in paragraph 2 on page 2 of this amendment.</p>	

12) ACT CD C	13) DOC TYP AA	14) COM TYP PS	15) LSE TYP.	16) ORIG. AGCY DSS6000	17) DOCUMENT NO. 0312466100	18) COM MIT AGCY DSS6000	19) COMMIT. NO. 12466100	20) VENDOR FEIN/SSN - SUFFIX 06-1591019-01
21) COMMITTED AMOUNT			22) OBLIGATED AMOUNT			23) CONTRACT PERIOD (FROM/TO) 07/01/2001 - 12/31/2008		
24) Line No.	25) Budget Reference	26) Fund	27) Department	28) Program	29) SID	30) Account	31) Project/Grant	32) Chart 1
								33) Chart 2
								Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		STATUTORY AUTHORITY §§ 4-8, 17b-3	
35) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 	TITLE Member	DATE 5/20/08	
36) AGENCY (AUTHORIZED OFFICIAL) 	TITLE Michael P. Starkowski, Commissioner	DATE 5/22/07	
37) OFFICE OF POLICY & MGMT./DEPT. OF ADMIN. SERV. 	TITLE ASSOC. ATTY. GENERAL	DATE 6/5/08	
38) ATTORNEY GENERAL (APPROVED AS TO FORM) 			

DISTRIBUTION: PART 1 - CONTRACTOR PART 2 - COMPTROLLER PART 3 - OFFICE OF THE ATTORNEY GENERAL PART 4 - ATTORNEY GENERAL PART 5 - AGENCY

Assoc.

The contract between **Craig J. Lubitski Consulting, LLC (the Contractor)** and the **Department of Social Services (the Department)**, which was last executed by the parties and signed by the Commissioner of the Department of Social Services on 06/04/07 is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by \$ 1,887,174.00 from \$21,613,473.88 to \$23,500,648.00.
2. Payment of these additional monies shall be rendered on a reimbursement basis only, for actual services performed.
3. Part I, Budget, of the original contract, is amended to include the addition of \$1,887,174.00 associated with this amendment to support 8,546 rate hours for desk reviews at the hourly rate of \$93.14, and 12,400 field audit hours at the hourly rate of \$88.00.
4. Part II, Mandatory Terms and Conditions, of the original contract and subsequent amendments, is replaced in its entirety by the following Mandatory Terms and Conditions:

## **PART II. MANDATORY TERMS AND CONDITIONS**

The Contractor agrees to comply with the following mandatory terms and conditions.

### **A. CLIENT-RELATED SAFEGUARDS**

1. **Inspection of Work Performed.** The Department or its authorized representative shall at all times have the right to enter into the Contractor's premises, or such other places where duties under the contract are being performed, to inspect, to monitor or to evaluate the work being performed. The Contractor and all subcontractors must provide all reasonable facilities and assistance for Department representatives. All inspections and evaluations shall be performed in such a manner as will not unduly delay work. The Contractor shall disclose information on clients, applicants and their families as requested unless otherwise prohibited by federal or state law. Written evaluations pursuant to this section shall be made available to the Contractor.
2. **Safeguarding Client Information.** The Department and the Contractor agree to safeguard the use, publication and disclosure of information on all applicants for and all clients who receive service under this contract with all applicable federal and state law concerning confidentiality.
3. **Reporting of Client Abuse or Neglect.** The Contractor shall comply with all reporting requirements relative to client abuse and neglect, including but not limited to requirements as specified in Conn. Gen. Stat. §§ 17a-101 through 103, 19a-216, 46b-120 (related to children); Conn. Gen. Stat. § 46a-11b (relative to persons with mental retardation); and Conn. Gen. Stat. § 17b-407 (relative to elderly persons).

### **B. CONTRACTOR OBLIGATIONS**

#### **1. Credits and Rights in Data.**

- (a) Unless expressly waived in writing by the Department, all documents, reports, and other publications for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the state and the Department and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify the Department, unless the Department or its agents co-authored said publication and said release is done with the prior written approval of the Commissioner of the Department. Any publication shall contain the following statement: "This publication does not express the views of the Department or the State of Connecticut. The views and opinions expressed are those of the authors." The Contractor or any of its agents shall not copyright data and information obtained under the terms and conditions of this contract, unless expressly authorized in writing by the Department. The Department shall have the right to publish, duplicate, use and disclose all such data in any manner, and may

authorize others to do so. The Department may copyright any data without prior notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Department of such data.

- (b) "Data" shall mean all results, technical information and materials developed and/or obtained in the performance of the services hereunder, including but not limited to all reports, surveys, plans, charts, recordings (video and/or sound), pictures, curricula, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the services performed hereunder.
2. **Organizational Information, Conflict of Interest.** Annually during the term of the contract, the Contractor shall submit to the Department the following:
    - a. its most recent documentation filed with the Office of the Secretary of the State or such other information that the Department deems appropriate with respect to the organization and affiliation of the Contractor and related entities.
  3. **Federal Funds.** The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Department shall specify all such requirements in Part I of this contract.
  4. **Audit Requirements.** The State Auditors of Public Accounts shall have access to all records and accounts for the fiscal year(s) in which the award was made, as relevant to the Contract. The Contractor will comply with federal and state single audit standards as applicable.
  5. **Prohibited Interest.** The Contractor warrants that no state appropriated funds have been paid or will be paid by or on behalf of the Contractor to contract with or retain any company or person, other than bona fide employees working solely for the Contractor, to influence or attempt to influence an officer or employee of any state agency in connection with the awarding, extension, continuation, renewal, amendment, or modification of this agreement, or to pay or agree to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.
  6. **Offer of Gratuities.** By its agreement to the terms of this contract, the Contractor certifies that no elected or appointed official or employee of the State of Connecticut has or will benefit financially or materially from this contract. The Department may terminate this contract if it is determined that gratuities of any kind were either offered or received by any of the aforementioned officials or employees from the Contractor or its agents or employees.
  7. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this clause, to the Department on an annual basis in the appropriate fiscal report as specified in Part I of this contract. "Related party" to this contract means a person or organization related to the Contractor through marriage, ability to control, ownership, family or business association, that has the ability to influence or potentially influence the State contracting process. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related party transactions" between a Contractor, its employees, Board members or members of the Contractor's governing body, and a related party include, but are not limited to:
    - (a) real estate sales or leases;
    - (b) leases for equipment, vehicles or household furnishings;
    - (c) mortgages, loans and working capital loans; and
    - (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor.
  8. **Lobbying.** The Contractor agrees to abide by state and federal lobbying laws, and further specifically agrees not to include in any claim for reimbursement any expenditures associated with activities to influence, directly or indirectly,

legislation pending before Congress, or the Connecticut General Assembly or any administrative or regulatory body unless otherwise required by this contract.

**9. Suspension or Debarment.**

- (a) Signature, on Contract certifies the Contractor or any person (including subcontractors) involved in the administration of Federal or State funds:
  - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental department or agency (Federal, State or local);
  - (2) within a three year period preceding this Contract, has not been convicted or had a civil judgment rendered against him/her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or Contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the above offenses;
  - (4) has not within a three year period preceding this agreement had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Department.

**10. Liaison.** Each party shall designate a liaison to facilitate a cooperative working relationship between the Contractor and the Department in the performance and administration of this contract. The Department appoints Attorney Julia Lentini of Contract Administration to address any contractual or logistical concerns under the contract; and appoints Gary Richter, Director of Rate Setting and Certificate of Need for any issues regarding performance under this contract or technical concerns.

**11. Subcontracts.** For purposes of this clause subcontractors shall be defined as providers of direct human services. Vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program. The subcontractor's identity, services to be rendered and costs shall be detailed in Part I of this contract. Notwithstanding the execution of this contract prior to a specific subcontractor being identified or specific costs being set, no subcontractor may be used or expense under this contract incurred prior to identification of the subcontractor or inclusion of a detailed budget statement as to subcontractor expense, unless expressly provided in Part I of this contract. No subcontractor shall acquire any direct right of payment from the Department by virtue of the provisions of this clause or any other clause of this contract. The use of subcontractors, as defined in this clause, shall not relieve the Contractor of any responsibility or liability under this contract. The Contractor shall make available copies of all subcontracts to the Department upon request.

**12. Independent Capacity of Contractor.** The Contractor, its officers, employees, subcontractors, or any other agent of the Contractor in the performance of this contract will act in an independent capacity and not as officers or employees of the State of Connecticut or of the Department.

**13. Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the State of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
  - (1) claims arising directly or indirectly, in connection with the contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and
  - (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the contract. The Contractor shall use



counsel reasonably acceptable to the State in carrying out its obligations under this contract. The contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the contract.

- (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
- (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the Claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the Claims.
- (d) The Contractor shall carry and maintain at all times during the term of the contract, and during the time that any provisions survive the term of the contract, sufficient general liability insurance to satisfy its obligations under this contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
- (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a Claim against a third party.
- (f) This section shall survive the termination, cancellation or expiration of the Contract, and shall not be limited by reason of any insurance coverage.

**14. Choice of Law and Choice of Forum, Settlement of Disputes, Office of the Claims Commission.**

- (a) The Contractor agrees to be bound by the laws of the State of Connecticut and the federal government where applicable, and agrees that this contract shall be construed and interpreted in accordance with Connecticut law and Federal law where applicable.
- (b) Any dispute concerning the interpretation or application of this contract shall be decided by the Commissioner of the Department or his/her designee whose decision shall be final subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the commissioner pursuant to this provision, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Department shall proceed diligently with the performance of the contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings except as authorized by that Chapter in any State or Federal Court in addition to or in lieu of said Chapter 53 proceedings.

**15. Compliance with Law and Policy.** Contractor shall comply with all pertinent provisions of local, state and federal laws and regulations as well as Departmental policies and procedures applicable to Contractor's programs as specified in this contract. The Department shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Department has responsibility to promulgate or enforce.

**16. Facility Standards and Licensing Compliance.** The Contractor will comply with all applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.



17. **Reports.** The Contractor shall provide the Department with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor agrees to provide the Department with such reports as the Department requests.
18. **Delinquent Reports.** The Contractor will submit required reports by the designated due dates as identified in this agreement. After notice to the Contractor and an opportunity for a meeting with a Department representative, the Department reserves the right to withhold payments for services performed under this Contract if the Department has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this agreement or previous agreements for similar or equivalent services the Contractor has entered into with the Department.
19. **Record Keeping and Access.** The Contractor shall maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this contract. These records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the state or, where applicable, federal agencies. The Contractor shall retain all such records concerning this contract for a period of three (3) years.
20. **Workforce Analysis.** The Contractor shall provide a workforce analysis affirmative action report related to employment practices and procedures.
21. **Litigation.**
  - (a) The Contractor shall provide written notice to the Department of any litigation that relates to the services directly or indirectly financed under this contract or that has the potential to impair the ability of the Contractor to fulfill the terms and conditions of this contract, including but not limited to financial, legal or any other situation which may prevent the Contractor from meeting its obligations under the contract.
  - (b) The Contractor shall provide written notice to the Department of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other provisions of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

## C. ALTERATIONS, CANCELLATION AND TERMINATION

### 1. Contract Revisions and Amendments.

- (a) The Contractor shall submit to the Department in writing any proposed revision to the contract and the Department shall notify the Contractor of receipt of the proposed revision.
- (b) Contract amendments must be in writing and shall not be effective until executed by both parties to the contract, and, where applicable, approved by the Attorney General.
- (c) No amendments may be made to a lapsed contract.

### 2. Contract Reduction.

- (a) The Department reserves the right to reduce the Contracted amount of compensation at any time in the event that:
  - (1) the Governor or the Connecticut General Assembly rescinds, reallocates, or in any way reduces the total amount budgeted for the operation of the Department during the fiscal year for which such funds are withheld; or
  - (2) federal funding reductions result in reallocation of funds within the Department.

- (b) The Contractor and the Department agree to negotiate on the implementation of the reduction within thirty (30) days of receipt of formal notification of intent to reduce the contracted amount of compensation from the Department. If agreement on the implementation of the reduction is not reached within 30 calendar days of such formal notification and a contract amendment has not been executed, the Department may terminate the contract sixty (60) days from receipt of such formal notification. The Department will formally notify the Contractor of the termination date.

### 3. Default by the Contractor.

- (a) If the Contractor defaults as to, or otherwise fails to comply with, any of the conditions of this contract the Department may:
  - (1) withhold payments until the default is resolved to the satisfaction of the Department;
  - (2) temporarily or permanently discontinue services under the contract;
  - (3) require that unexpended funds be returned to the Department;
  - (4) assign appropriate state personnel to execute the contract until such time as the contractual defaults have been corrected to the satisfaction of the Department;
  - (5) require that contract funding be used to enter into a subcontract arrangement with a person or persons designated by the Department in order to bring the program into contractual compliance;
  - (6) terminate this contract;
  - (7) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the state or the program(s) provided under this contract or both;
  - (8) any combination of the above actions.
- (b) In addition to the rights and remedies granted to the Department by this contract, the Department shall have all other rights and remedies granted to it by law in the event of breach of or default by the Contractor under the terms of this contract.
- (c) Prior to invoking any of the remedies for default specified in this paragraph except when the Department deems the health or welfare of service recipients is endangered as specified in of this contract or has not met requirements as specified in this contract, the Department shall notify the Contractor in writing of the specific facts and circumstances constituting default or failure to comply with the conditions of this contract and proposed remedies. Within five (5) business days of receipt of this notice, the Contractor shall correct any contractual defaults specified in the notice and submit written documentation of correction to the satisfaction of the Department or request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to respond to the Department's notice of default and to present a plan of correction with applicable time frames. Within five (5) business days of such meeting, the commissioner of the Department shall notify the Contractor in writing of his/her response to the information provided including acceptance of the plan of correction and, if the commissioner finds continued contractual default for which a satisfactory plan of corrective action has not been presented, the specific remedy for default the Department intends to invoke. This action of the Commissioner shall be considered final.
- (d) If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the agreed upon plan of correction, the Department may proceed with default remedies.

- 4. **Non-enforcement Not to Constitute Waiver.** The failure of either party to insist upon strict performance of any terms or conditions of this agreement shall not be deemed a waiver of the term or condition or any remedy that each

party has with respect to that term or condition nor shall it preclude a subsequent default by reason of the failure to perform.

**5. Cancellation and Recoupment.**

- (a) This agreement shall remain in full force and effect for the entire term of the contract period, above, unless either party provides written notice 30 days or more from the date of termination, except that no cancellation by the Contractor may be effective for failure to provide services for the agreed price or rate and cancellation by the Department shall not be effective against services already rendered, so long as the services were rendered in compliance with the contract during the term of the contract.
- (b) In the event the health or welfare of the service recipients is endangered, the Department may cancel the contract and take any immediate action without notice it deems appropriate to protect the health and welfare of service recipients. The Department shall notify the Contractor of the specific reasons for taking such action in writing within five (5) business days of cancellation. Within five (5) business days of receipt of this notice, the Contractor may request in writing a meeting with the commissioner of the Department or his/her designee. Any such meeting shall be held within five (5) business days of the written request. At the meeting, the Contractor shall be given an opportunity to present information on why the Department's actions should be reversed or modified. Within five (5) business days of such meeting, the Commissioner of the Department shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Department. This action of the Commissioner shall be considered final.
- (c) The Department reserves the right to cancel the contract without prior notice when the funding for the contract is no longer available.
- (d) The Department reserves the right to recoup any deposits, prior payment, advance payment or down payment made if the contract is terminated by either party. Allowable costs incurred to date of termination for operation or transition of program(s) under this contract shall not be subject to recoupment. The Contractor agrees to return to the Department any funds not expended in accordance with the terms and conditions of the contract and, if the Contractor fails to do so upon demand, the Department may recoup said funds from any future payments owing under this contract or any other contract between the State and the Contractor.

**6. Equipment.** In the event this Contract is terminated or not renewed, the Department reserves the right to recoup any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract. For purposes of this provision, equipment means tangible personal property with a normal useful life of at least one year and a value of at least \$5,000. Equipment shall be considered purchased from Contractor funds and not from Department funds if the equipment is purchased for a program that has other sources of income equal to or greater than the equipment purchase price.

**7. Termination.** All notices of termination as defined in the subsections below shall be signed by the Contract Administrator and/or designee, shall specify a date of termination and shall be delivered to the Contractor no less than 30 days prior to the specified date of termination.

**a. *Termination for Convenience:***

- i. The Department may terminate performance of work under the Contract in whole or in part whenever for any reason the Department shall determine that such termination is in the best interest of the Department and/or the State of Connecticut.
- ii. In the event that the Department elects to terminate the Contract pursuant to this provision, the Contract Administrator and/or designee shall notify the Contractor by certified mail, return receipt requested. Termination shall be effective as of the close of business on the date specified in the notice.

b. ***Termination for Financial Instability:***

- i. In the event that the Contractor becomes financially unstable to the point of threatening the ability of the Department to obtain the services provided for under this contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets, the Department may, at its option, immediately terminate this contract.
- ii. In the event the Department elects to terminate this contract under this provision, it shall do so by the Contract Administrator and/or designee sending notice of termination to the Contractor by certified mail, return receipt requested, specifying the date of termination.
- iii. In the event of the filing of a petition in bankruptcy by or against a principal subcontractor, the Contractor shall immediately so advise the Department. The Contractor shall ensure that all tasks related to the subcontract are performed in accordance with the terms of the contract and agrees that the filing of a petition in bankruptcy by or against a subcontractor shall, in no way, relieve Contractor of its duties under this contract.

c. ***Procedure for Termination:***

In addition to the requirements set forth above, upon delivery by certified mail to the Contractor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the Contractor shall:

- i. Stop work under the contract on the date and to the extent specified in the Notice of Termination.
- ii. If the Department so directs in writing, terminate all subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination or assign to the Department in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the Contractor under the subcontracts not so terminated, in which case the Department shall have the right, in its discretion, to settle or pay any and all claims arising out of the termination of such subcontracts.
- iii. Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination.
- iv. Be entitled to payment for services rendered through the effective date of termination.

8. **Transition after Termination or Expiration of Contract.** In the event that this contract is terminated for any reason except where the health and welfare of service recipients is endangered or if the Department does not offer the Contractor a new contract for the same or similar service at the contract's expiration, the Contractor will assist in the orderly transfer of clients served under this contract as required by the Department and will assist in the orderly cessation of operations under this contract. Prior to incurring expenses related to the orderly transfer or continuation of services to service recipients beyond the terms of the contract, the Department and the Contractor agree to negotiate a termination amendment to the existing agreement to address current program components and expenses, anticipated expenses necessary for the orderly transfer of service recipients and changes to the current program to address service recipient needs. The Contractual agreement may be amended as necessary to assure transition requirements are met during the term of this contract. If the transition cannot be concluded during this term, the Department and the Contractor may negotiate an amendment to extend the term of the current contract until the transition may be concluded.

9. **Program Cancellation.** Where applicable, the cancellation or termination of any individual program or services under this Contract will not, in and of itself, in any way affect the status of any other program or service in effect under this Contract.

10. **Mergers and Acquisitions.**



- (a) Contracts in whole or in part are not transferable or assignable without the prior written agreement of the Department.
- (b) At least ninety (90) days prior to the effective date of any fundamental changes in corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility, the Contractor shall provide the Department with written notice of such changes.
- (c) The Contractor shall comply with requests for documentation deemed necessary by the Department to determine whether the Department will provide prior written agreement. The Department shall notify the Contractor of such determination not later than forty-five (45) business days from the date the Department receives such requested documentation.

#### **D. STATUTORY AND REGULATORY COMPLIANCE**

##### **1. Health Insurance Portability Act of 1996 ("HIPAA").**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance "with all applicable federal and state law regarding confidentiality, which includes but is not limited to ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; *and*
- (c) The State of Connecticut Department named on page 1 of this Contract (hereinafter "Department") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; *and*
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; *and*
- (e) The Contractor is a "business associate" of the Department, as that term is defined in 45 C.F.R. § 160.103; *and*
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
  - (1) "Business Associate" shall mean the Contractor.
  - (2) "Covered Entity" shall mean the Department of the State of Connecticut named on page 1 of this Contract.
  - (3) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (4) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (5) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.



- (6) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (7) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (8) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (9) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (10) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (11) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
  - (12) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to make PHI available for amendment pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
  - (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
  - (12) Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.
- (i) Permitted Uses and Disclosure by Business Associate.
    - (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
    - (2) Specific Use and Disclosure Provisions
      - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
      - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
      - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
  - (j) Obligations of Covered Entity.
    - (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
    - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
    - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
  - (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
  - (l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination
  - (A) Except as provided in (1)(2) above, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
  - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.
- (m) Miscellaneous Provisions.
  - (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
  - (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
  - (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
  - (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.

- (5) **Construction.** This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
  - (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, Contractors or agents, or any third party to whom Business Associate has disclosed PHI pursuant to this Contract. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
  - (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards, or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this Section of the Contract.
2. **Americans with Disabilities Act of 1990.** This clause applies to those Contractors which are or will come to be responsible for compliance with the terms of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101-12189 and §§ 12201-12213) (Supp. 1993); 47 USCS §§ 225, 611 (Supp. 1993). During the term of the Contract, the Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it will hold the state harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor agrees to abide by provisions of § 504 of the Federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
  3. **Utilization of Minority Business Enterprises.** It is the policy of the state that minority business enterprises should have the maximum opportunity to participate in the performance of government Contracts. The Contractor agrees to use best efforts consistent with 45 C.F.R. §§ 74.160 *et seq.* (1992) and paragraph 9 of Appendix G thereto for the administration of programs or activities using HHS funds; and §§ 13a-95a, 4a-60 to 4a-62, 4b-95(b), and 4a-60q of the Connecticut General Statutes to carry out this policy in the award of any subcontracts.
  4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall use its best efforts to ensure that it gives priority to hiring welfare recipients who are subject to time limited welfare and must find employment. The Contractor and the Department will work cooperatively to determine the number and types of positions to which this paragraph shall apply. The Department of Social Services regional office staff or staff of Department of Social Service Contractors will undertake to counsel and screen an adequate number of appropriate candidates for positions targeted by the Contractor as suitable for individuals in the time limited welfare program. The success of the Contractor's efforts will be considered when awarding and evaluating Contracts.
  5. **Non-discrimination Regarding Sexual Orientation.** Unless otherwise provided by Conn. Gen. Stat. § 46a-81p, the Contractor agrees to the following provisions required pursuant to § 4a-60a of the Connecticut General Statutes:
    - (a) (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
    - (2) the Contractor agrees to provide each labor union or representatives of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding a notice to be provided by the commission on human rights and opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to § 46a-56 of the Connecticut General Statutes;
  - (4) the Contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts concerning the employment practices and procedures of the Contractor which relate to provisions of this section and § 46a-56 of the Connecticut General Statutes.
- (b) The Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with § 46a-56 of the Connecticut General Statutes provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
6. **Nondiscrimination and Affirmative Action Provisions in Contracts of the State and Political Subdivisions Other Than Municipalities.** The Contractor agrees to comply with provisions of § 4a-60 of the Connecticut General Statutes:
- (a) Every Contract to which the state or any political subdivision of the state other than a municipality is a party shall contain the following provisions:
    - (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved;
    - (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission;
    - (3) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining agreement or other Contract or understanding and each vendor with which such Contractor has a Contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;
    - (4) the Contractor agrees to comply with each provision of this section and Conn. Gen. Stat. §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. §§ 46a-56, 46a-68e and 46a-68f;
    - (5) the Contractor agrees to provide the commission of human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this section and Conn. Gen. Stat. § 46a-56. If the Contract is a public works Contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.



- (b) For the purposes of this section, "minority business enterprise" means any small Contractor or supplier of materials fifty-one per cent or more of capital stock, if any, or assets of which is owned by a person or persons:
  - (1) who are active in the daily affairs of the enterprise;
  - (2) who have the power to direct the management and policies of the enterprise; and
  - (3) who are members of a minority, as such term is defined in subsection (a) of Conn. Gen. Stat. § 49-60g.
- (c) For the purposes of this section, "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements. Determinations of the Contractor's good faith efforts shall include but shall not be limited to the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative action advertising; recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (e) Contractor shall include the provisions of subsection (a) of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a Contract with the state and such provision shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the Contractor may request the state of Connecticut to enter into such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

- 7. **Government Function; Freedom of Information.** If the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contract is for the performance of a governmental function, as that term is defined in Conn. Gen. Stat. § 1-200(11), the Department is entitled to receive a copy of the records and files related to the Contractor's performance of the governmental function, and may be disclosed by the Department pursuant to the Freedom of Information Act.
- 8. **Whistleblowing.** This Agreement is subject to the provisions of § 4-61dd of the Connecticut General Statutes. In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of this Agreement. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.
- 9. **Campaign Contribution Restrictions.** On February 8, 2007, Governor Rell signed into law Public Act 07-1, An Act Concerning the State Contractor Contribution Ban and Gifts to State and Quasi-Public Agencies.

For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this

Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11.

10. **Non-smoking.** If the Contractor is an employer subject to the provisions of § 31-40q of the Connecticut General Statutes, the Contractor agrees to provide upon request the Department with a copy of its written rules concerning smoking. Evidence of compliance with the provisions of § 31-40q of the Connecticut General Statutes must be received prior to Contract approval by the Department.

11. **Executive Orders.**

- (a) Executive Order No. 3: Nondiscrimination. This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971, and, as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. 3 or any state or federal law concerning nondiscrimination, notwithstanding that the Labor Commissioner is not a party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that said Executive Order No. 3 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to Contract performance in regard to nondiscrimination, until the Contract is completed or terminated prior to completion. The Contractor agrees, as part consideration hereof, that this Contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. 3 and that the Contractor will not discriminate in employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.
- (b) Executive Order No. 16: Violence in the Workplace Prevention Policy. This Contract is subject to provisions of Executive Order No. 16 of Governor John J. Rowland promulgated August 4, 1999, and, as such, this Contract may be cancelled, terminated or suspended by the Contracting agency or the State for violation of or noncompliance with said Executive Order No. 16. The parties to this Contract, as part of the consideration hereof, agree that:
- (1) Contractor shall prohibit employees from bringing into the state work site, except as may be required as a condition of employment, any weapon/dangerous instrument defined in Section 2 to follow;
  - (2) weapon means any firearm, including a BB gun, whether loaded or unloaded, any knife (excluding a small pen or pocket knife), including a switchblade or other knife having an automatic spring release device, a stiletto, any police baton or nightstick or any martial arts weapon or electronic defense weapon. Dangerous instrument means any instrument, article or substance that, under the circumstances, is capable of causing death or serious physical injury;
  - (3) Contractor shall prohibit employees from attempting to use, or threaten to use, any such weapon or dangerous instrument in the state work site and employees shall be prohibited from causing, or threatening to cause, physical injury or death to any individual in the state work site;
  - (4) Contractor shall adopt the above prohibitions as work rules, violation of which shall subject the employee to disciplinary action up to and including discharge. The Contractor shall require that all employees are aware of such work rules;
  - (5) Contractor agrees that any subcontract it enters into in the furtherance of the work to be performed hereunder shall contain the provisions 1 through 4, above.
- (c) Executive Order No. 17: Connecticut State Employment Service Listings. This Contract is subject to provisions of Executive Order No. 17 of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this Contract may be canceled, terminated or suspended by the Contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order Number 17, notwithstanding that the Labor Commissioner may not be a party to this Contract. The parties to this Contract, as part of the consideration hereof, agree that Executive Order No. 17 is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the Contracting agency and the State Labor Commissioner shall have joint and

several continuing jurisdiction in respect to Contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

- (d) Executive Order No. 7C: Contracting Standards Board. This Contract is subject to provisions of Executive Order No. 7C of Governor M. Jodi Rell, promulgated on July 13, 2006. The Parties to this Contract, as part of the consideration hereof, agree that:

- (1) The State Contracting Standards Board ("Board") may review this Contract and recommend to the state Contracting agency termination of this Contract for cause. The State Contracting agency shall consider the recommendations and act as required or permitted in accordance with the Contract and applicable law. The Board shall provide the results of its review, together with its recommendations, to the state Contracting agency and any other affected party in accordance with the notice provisions in the Contract not later than fifteen (15) days after the Board finalizes its recommendation. For the purposes of this Section, "for cause" means: (A) a violation of the State Ethics Code (Chap. 10 of the general statutes) or section 4a-100 of the general statutes or (B) wanton or reckless disregard of any state Contracting and procurement process by any person substantially involved in such Contract or state Contracting agency.
- (2) For purposes of this Section, "Contract" shall not include real property transactions involving less than a fee simple interest or financial assistance comprised of state or federal funds, the form of which may include but is not limited to grants, loans, loan guarantees, and participation interests in loans, equity investments and tax credit programs. Notwithstanding the foregoing, the Board shall not have any authority to recommend the termination of a Contract for the sale or purchase of a fee simple interest in real property following transfer of title.
- (3) Notwithstanding the Contract value listed in sections 4-250 and 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1, all State Contracts between state agencies and private entities with a value of \$50,000 (fifty thousand dollars) or more in a calendar or fiscal year shall comply with the gift and campaign contribution certification requirements of section 4-252 of the Conn. Gen. Stat. and section 8 of Executive Order Number 1. For purposes of this section, the term "certification" shall include the campaign contribution and annual gift affidavits required by section 8 of Executive Order Number 1.

- (e) Executive Order No. 14: Procurement of cleaning products and services. This Agreement is subject to the provisions of Executive Order No. 14 of Governor M. Jodi Rell promulgated April 17, 2006. Pursuant to this Executive Order, the contractor shall use cleaning and/or sanitizing products having properties that minimize potential impacts on human health and the environment, consistent with maintaining clean and sanitary facilities.

5. This document constitutes an amendment to the above numbered contract. All terms and conditions of the original contract not amended by amendments 1, 2, 3, 4, 5, or herein shall remain in full force and effect.



# Craig J. Lubitski Consulting LLC

## CERTIFIED RESOLUTION

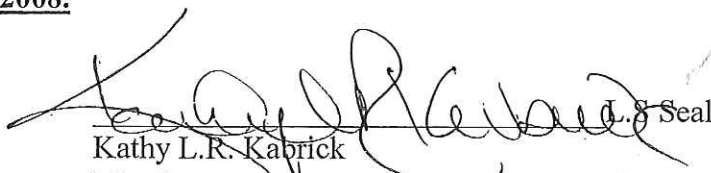
*For Limited Liability Companies (LLCs)*

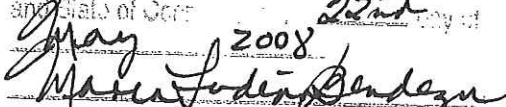
I, Kathy L.R. Kabrick, a Member of Craig J. Lubitski Consulting LLC, a limited liability company organized and existing under the laws of the State of Connecticut (hereinafter the "Company"), hereby certify:

1. that Craig J. Lubitski Consulting LLC is run by Members
2. that Craig J. Lubitski is a member of Craig J. Lubitski Consulting LLC
3. that as such Craig J. Lubitski is not prohibited from or limited by the articles of organization from binding the LLC.

I do further certify Craig J. Lubitski Consulting LLC does not have a Company Seal and that the above statement has not been in anyway altered, amended or repealed and is now in full force and effect. RESOLVED that Contractor hereby adopts as its policy to support the nondiscrimination agreements and warranties required under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

IN WITNESS HEREOF, the undersigned has affixed his/her signature this 22<sup>nd</sup> day of May 2008.

  
Kathy L.R. Kabrick  
Member

Subscribed and Sworn to before me, a Notary  
Public, in and for the State of Hartford  
and State of Conn. 22nd day of  
May 2008  
  
Notary Public  
My Commission Expires Oct. 31, 2008





PERSONAL SERVICE AGREEMENT  
STATE OF CONNECTICUT

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION

I, THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS

OF SECTION 4-98 OF THE C.G.S., AS APPLICABLE.

CORE CT CONTRACT #01DSS1201QH

(1) ORIGINAL <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> A7		(2) IDENTIFICATION NO. PS 12466100
CONTRACTOR	(3) CONTRACTOR NAME CRAIG J. LUBITSKI CONSULTING, LLC	
	(4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> X	
	CONTRACTOR ADDRESS 225 Pitkin Street, East Hartford, CT 06108	CONTRACTOR FEIN/SSN 061591019
STATE AGENCY	(5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106	
	(6) AGENCY NO. DSS6000	
CONTRACT PERIOD	(7) DATE (FROM) 07/01/2001	(8) THROUGH (TO) 06/30/2009
	(9) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER X <input checked="" type="checkbox"/>	
CANCELLATION CLAUSE	(10) THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	
	(11) REQUIRED NO. OF DAYS WRITTEN NOTICE 30 Days	

COMPLETE DESCRIPTION OF SERVICE	(12) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary)	
	<p>Contract number PSA #12466100 (Core CT Number 01DSS1201QH) as amended by amendments 1, 2, 3, 4, 5 and 6 is hereby amended to extend the contract end date for a period of six months from December 31, 2008 to June 30, 2009. The Contractor shall continue to provide services in accordance with the terms of the original contract as amended by amendments 1, 2, 3, 4, 5 and 6, and in accordance with the provisions of this amendment 7.</p> <p>All terms and conditions of the original contract previously not amended or amended herein remain in full force and effect.</p>	

COST AND SCHEDULE OF PAYMENT	(13) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXECUTED AND APPROVED INVOICES.	
	<p>For the continuation of the provision of services the maximum contract value is increased by \$1,887,174.00 from \$23,500,648.00 to \$25,387,822.00. Payment terms for services rendered during the period January 1 - June 30, 2009 are set forth herein.</p>	

(14) ACT CD C	(15) DOC TYP AA	(16) COM TY F PS	(17) LSE TYP	(18) ORIG. AGCY DSS6000	(19) DOCUMENT NO. 0312466100	(20) COMMIT AGCY DSS6000	(21) COMMIT NO. 12466100	(22) VENDOR FEIN/SSN - SUFFIX 06-1591019-01
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(23) COMMITTED AMOUNT	(24) OBLIGATED AMOUNT	(25) CONTRACT PERIOD (FROM/TO) 07/01/2001 - 06/30/2009
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(26) Line No.	(27) Budget Reference	(28) Fund	(29) Department	(30) Program	(31) SID	(32) Account	(33) Project/Grant	(34) Chart		(35) Amount
								Chart 1	Chart 2	

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

ACCEPTANCE AND APPROVALS		(36) STATUTORY AUTHORITY §§ 4-8, 17b-3	
(37) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE)	(38) AGENCY (AUTHORIZED OFFICIAL)	TITLE Member	DATE 12/3/08
(39) OFFICE OF POLICY & MGMT. / DEPT. OF ADMIN. SERV.	(40) ATTORNEY GENERAL (APPROVED AS TO FORM)	TITLE Michael P. Starkowski, Commissioner	DATE 12/8/07
		TITLE	DATE 12/23/08

The contract between **Craig J. Lubitski Consulting, LLC (the Contractor)** and the **Department of Social Services (the Department)**, which was last executed by the parties and signed by the Commissioner of the Department of Social Services on 05/22/08 is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by \$ 1,887,174.00 from \$23,500,648.00 to \$25,387,822.00.
2. Payment of these additional monies shall be rendered on a reimbursement basis only, for actual services performed.
3. Part I, Budget, of the original contract, is amended to include the addition of \$1,887,174.00 associated with this amendment to support rate hours for desk reviews at the hourly rate of \$93.14, and field audit hours at the hourly rate of \$88.00, not to exceed \$1,887,174.00.
4. This document constitutes an amendment to the above numbered contract. All terms and conditions of the original contract not amended by amendments 1, 2, 3, 4, 5, 6 and herein, shall remain in full force and effect.



# Craig J. Lubitski Consulting LLC

## **CERTIFIED RESOLUTION**

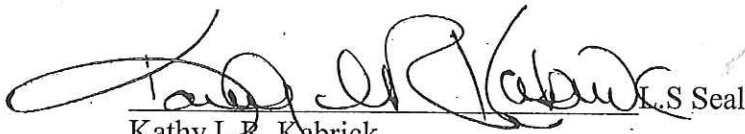
*For Limited Liability Companies (LLCs)*

I, Kathy L.R. Kabrick, a Member of Craig J. Lubitski Consulting LLC, a limited liability company organized and existing under the laws of the State of Connecticut (hereinafter the "Company"), hereby certify:

1. that Craig J. Lubitski Consulting LLC is run by Members
2. that Craig J. Lubitski is a member of Craig J. Lubitski Consulting LLC
3. that as such Craig J. Lubitski is not prohibited from or limited by the articles of organization from binding the LLC.

I do further certify Craig J. Lubitski Consulting LLC does not have a Company Seal and that the above statement has not been in anyway altered, amended or repealed and is now in full force and effect. RESOLVED that Contractor hereby adopts as its policy to support the nondiscrimination agreements and warranties required under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

**IN WITNESS HEREOF**, the undersigned has affixed his/her signature this 3<sup>rd</sup> day of **December 2008.**

  
Kathy L.R. Kabrick  
Member



## PERSONAL SERVICE AGREEMENT

STATE OF CONNECTICUT

CO-802A REV. 3/98 (Stock No. 6938-170-01)

Print or Type

OFFICE OF THE STATE COMPTROLLER  
CENTRAL ACCOUNTS PAYABLE DIVISION

1. THE STATE AGENCY AND THE CONTRACTOR, AS LISTED BELOW HEREBY ENTER INTO AN AGREEMENT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN AND/OR ATTACHED HERETO SUBJECT TO THE PROVISIONS OF SECTION 4-88 OF THE C.G.S., AS APPLICABLE.

CORE CT CONTRACT #01DSS1201QH

ORIGINAL ☐ AMENDMENT ☒ A8 IDENTIFICATION NO.  
PS 12466100

CONTRACTOR	3) CONTRACTOR NAME CRAIG J. LUBITSKI CONSULTING, LLC		4) ARE YOU PRESENTLY A STATE EMPLOYEE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
	CONTRACTOR ADDRESS 225 Pitkin Street, East Hartford, CT 06108		CONTRACTOR FEIN/SSN 061591019	
STATE AGENCY	5) AGENCY NAME AND ADDRESS Department of Social Services, 25 Sigourney Street, Hartford, CT 06106			6) AGENCY NO. DSS6000

CONTRACT PERIOD	7) DATE (FROM) 07/01/2001	8) THROUGH (TO) 06/30/2012	9) INDICATE MASTER AGREEMENT <input type="checkbox"/> CONTRACT AWARD <input type="checkbox"/> NO <input type="checkbox"/> NEITHER X <input type="checkbox"/>	
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CANCELLATION CLAUSE	THIS AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT FOR THE ENTIRE TERM OF THE CONTRACT PERIOD STATED ABOVE UNLESS CANCELLED BY THE STATE AGENCY, BY GIVING THE CONTRACTOR WRITTEN NOTICE OF SUCH INTENTION (REQUIRED DAYS NOTICE SPECIFIED AT RIGHT).	10) REQUIRED NO. OF DAYS WRITTEN NOTICE 30 Days
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COMPLETE DESCRIPTION OF SERVICE	11) CONTRACTOR AGREES TO: (Include special provisions - Attach additional blank sheets if necessary.)	
	<p>Contract number PSA #12466100 (Core CT Number 01DSS1201QH) as amended by amendments 1, 2, 3, 4, 5, 6 and 7 is hereby further amended to extend the contract end date for three (3) years from June 30, 2009 to June 30, 2012 and to include two (2) additional one-year options to further extend the contract end date. The Contractor shall continue to provide services in accordance with the terms of the original contract as amended by amendments 1, 2, 3, 4, 5, 6 and 7 and as further amended herein on pages 2 through 3 of this amendment.</p> <p>All terms and conditions of the original contract as amended that are not further amended herein, shall remain in full force and effect.</p>	

COST AND SCHEDULE OF PAYMENT	12) PAYMENT TO BE MADE UNDER THE FOLLOWING SCHEDULE UPON RECEIPT OF PROPERLY EXPLAINED AND APPROVED INVOICES.	
	<p>For the continuation of the provision of services the maximum contract value is increased by \$11,146,466.00 from \$25,387,822.00 to \$36,534,288.00. Payment terms for services rendered during the three-year period July 1, 2009 - June 30, 2012 and for each of the two one-year options are set forth on pages 2 and 3 of this amendment.</p>	

13) ACT CD C	14) DOC. TYP AA	15) COM. TYP PS	16) LSR. TYP.	17) ORIG. AGENCY DSS6000	18) DOCUMENT NO. 0312466100	19) COMMIT. AGENCY DSS6000	20) COMMIT. NO. 12466100	21) VENDOR FEIN/SSN - SUPP. FAX 06-1591019-01
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22) COMMITTED AMOUNT	23) OBLIGATED AMOUNT	24) CONTRACT PERIOD (FROM/TO) 07/01/2001 - 06/30/2012
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25) Line No.	26) Budget Reference	27) Fund	28) Department	29) Program	30) SID	31) Account	32) Project/Grant	33) Chart 1	34) Chart 2	35) Amount

An individual entering into a Personal Service Agreement with the State of Connecticut is contracting under a "work-for-hire" arrangement. As such, the individual is an independent contractor, and does not satisfy the characteristics of an employee under the common law rules for determining the employer/employee relationship of Internal Revenue Code section 3121(d). Individuals performing services as independent contractors are not employees of the State of Connecticut and are responsible themselves for payment of all State and local income taxes, federal income taxes and Federal Insurance Contribution Act (FICA) taxes.

## ACCEPTANCE AND APPROVALS

STATUTORY AUTHORITY §§ 4-8, 17b-3

36) CONTRACTOR (OWNER OR AUTHORIZED SIGNATURE) 	TITLE Member	DATE 6-18-09
37) AGENCY (AUTHORIZED OFFICIAL) 	TITLE Michael P. Starkowski, Commissioner	DATE 6/22/09
38) OFFICE OF POLICY & ADMIN. / DEPT. OF ADMIN. SERV. 	TITLE	DATE
39) ATTORNEY GENERAL (APPROVED AS TO FORM) 	ASSOC. ATTY. GENERAL	DATE 7/10/09

DISTRIBUTION: PART 1 - CONTRACTOR; PART 2 - COMPTROLLER; PART 3 - CPM/DAS; PART 4 - ATTORNEY GENERAL; PART 5 - AGENCY



1. The Contractor shall continue to provide the Desk Review and Audit Services as set forth in the original contract as amended by amendments 1, 2, 3, 4, 5, 6 and 7 for an additional period of three-years through June 30, 2012. For each year in the three-year contract extension the Contractor shall perform up to 41,892 Desk Review and Audit hours.
2. There shall be available two (2) one-year options to further extend this contract that may be exercised, in whole or in part, at the sole discretion of the Department. The Department shall notify the Contractor, in writing, no later than March 2, 2012 of the Department's intent to allow the contract to expire on June 30, 2012 or to exercise either or both of the option years.
3. In addition to the provision of Desk Review and Audit Services as set forth in the original contract as amended, the Contractor shall provide in each year of the three-year contract extension up to 490 hours for the Department of Developmental Services (DDS). These hours shall be used by the Contractor as directed by DDS. Specific tasks shall include the review and collection of cost reports, updating DDS' Annual Report of Residential and Day Services and other mutually agreed upon tasks as needed.
4. During this contract extension period, unless otherwise notified by the Department, the Contractor's designated Department contact for issues pertaining to the Contractor's performance of Desk Review and Audit Services; the filing of report and/or submission of invoices shall continue to be Gary Richter at 424-5105 or [gary.richter@ct.gov](mailto:gary.richter@ct.gov).
5. During this contract extension period, unless otherwise notified by the Department, the Contractor's designated contact for issues pertaining to the Contractor's performance of services for DDS shall Peter Mason at 418-6077 or [peter.mason@ct.gov](mailto:peter.mason@ct.gov).
6. During this contract extension period, unless otherwise notified by the Department, the Contractor's designated Department contact for issues pertaining to contract terms and conditions shall be Kathleen Brennan at 424-5693 or [Kathleen.brennan@ct.gov](mailto:Kathleen.brennan@ct.gov).
7. For services provided during the period July 1, 2009 through June 30, 2010 the Department shall pay the Contractor the all-inclusive hourly rate of \$87.00 based on the actual numbers of hours worked up to maximum of 41,892 hours for Desk Review and Audit services and a maximum of 490 hours for DDS services.
8. For services provided during the period July 1, 2010 through June 30, 2011 the Department shall pay the Contractor the all-inclusive hourly rate of \$87.00 based on the actual numbers of hours worked up to maximum of 41,892 hours for Desk Review and Audit services and a maximum of 490 hours for DDS services.
9. For services provided during the period July 1, 2011 through June 30, 2012 the Department shall pay the Contractor for the actual numbers of hours worked up to maximum of 41,892 hours for Desk Review and Audit services and a maximum of 490 hours for DDS services. During this period the all-inclusive hourly rate in effect shall be \$89.00 increased by the forecasted increase, if any in the G.D.P. Deflator for 2012 as published in the February 2011 "State of Connecticut – Economic Report of the Governor". The Department and the Contractor agree to begin the development and negotiation of the all-inclusive hourly rate for services during the period July 1, 2011 through June 30, 2012 no later than February 28, 2011.

10. In the event that the Department exercises the option years for this contract, development of the all-inclusive hourly rate to be paid during the extension years shall begin upon the Contractor's receipt of the notice from the Department of the intent to exercise the option year(s).
11. For services rendered during the first option year (July 1, 2012 through June 13, 2013) the all-inclusive hourly rate in effect shall be mutually agreed to by the parties and shall be calculated by applying the forecasted increase, if any in the G.D.P. Deflator for 2013 as published in the February 2012 "State of Connecticut – Economic Report of the Governor" to the all-inclusive hourly rate in effect for the preceding contract year. The all-inclusive hourly rate shall be applied to the actual number of hours worked during the contract year which shall not exceed 41,892 hours for Desk Review and Audit services and a maximum of 490 hours for DDS services.
12. For services rendered during the second option year (July 1, 2013 through June 13, 2014) the all-inclusive hourly rate in effect shall be mutually agreed to by the parties and shall be calculated by applying the forecasted increase, if any in the G.D.P. Deflator for 2014 as published in the February 2013 "State of Connecticut – Economic Report of the Governor" to the all-inclusive hourly rate in effect for the preceding contract year. The all-inclusive hourly rate shall be applied to the actual number of hours worked during the contract year which shall not exceed 41,892 hours for Desk Review and Audit services and a maximum of 490 hours for DDS services.
13. The Contractor shall, on a monthly basis, submit a single invoice for services rendered during the prior month. Said invoice shall designate the hours utilized during the period for each of the three possible tasks authorized through this contract amendment: Desk Reviews, Audits and DDS services.
14. Section 2.6(b) on page 26 of Amendment 1 is deleted and the Contractor is no longer obligated to conduct one eight (8) hour training session for Department Audit staff.
15. The listing of hours set forth in Section 5 on page 10 of Amendment 5 is deleted in its entirety and replaced with the following:

Key Personnel	Total Annual Hours for Desk Review and Audit Services
Craig J. Lubitski	1900
Kathy L.R. Kabrick	900
Mark J. McKenn	1800

16. Part II Mandatory Terms and Conditions, added to this contract through Amendment 6 remain in full force and effect.



# Craig J. Lubitski Consulting LLC

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## **CERTIFIED RESOLUTION**

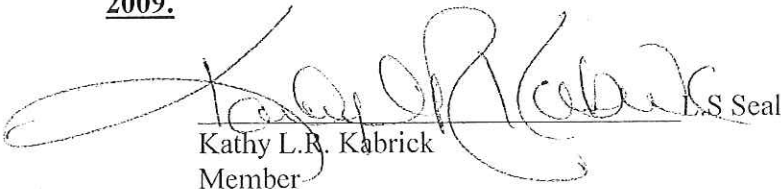
*For Limited Liability Companies (LLCs)*

I, Kathy L.R. Kabrick, a Member of Craig J. Lubitski Consulting LLC, a limited liability company organized and existing under the laws of the State of Connecticut (hereinafter the "Company"), hereby certify:

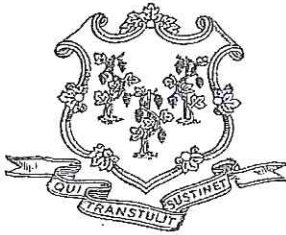
1. that Craig J. Lubitski Consulting LLC is run by Members
2. that Craig J. Lubitski is a member of Craig J. Lubitski Consulting LLC
3. that as such Craig J. Lubitski is not prohibited from or limited by the articles of organization from binding the LLC.

I do further certify Craig J. Lubitski Consulting LLC does not have a Company Seal and that the above statement has not been in anyway altered, amended or repealed and is now in full force and effect. RESOLVED that Contractor hereby adopts as its policy to support the nondiscrimination agreements and warranties required under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

**IN WITNESS HEREOF**, the undersigned has affixed his/her signature this **18th** day **of June** **2009.**

  
Kathy L.R. Kabrick  
Member

  
**CAROL S. CORTHOUTS**  
NOTARY PUBLIC  
State of Connecticut  
My Commission Expires  
December 31, 2013



STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES

## CONTRACT AMENDMENT

Contractor: CRAIG J. LUBITSKI CONSULTING, LLC  
Contractor Address: 225 PITKIN STREET, SUITE 200, EAST HARTFORD, CT 06108  
Contract Number: 043-MED-1QH-01 / 01DSS1201QH  
Amendment Number: A9  
Amount as Amended: \$40,434,288.00  
Contract Term as Amended: 07/01/01 - 06/30/13

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The contract between Craig J. Lubitski Consulting, LLC (the Contractor) and the Department of Social Services (the Department), which was last executed by the parties and approved by the Associate Attorney General on July 25, 2001, is hereby amended as follows:

1. The total maximum amount payable under this contract is increased by \$3,900,000.00 from \$36,534,288.00 to \$40,434,288.00.
2. The term of the contract is extended for an additional twelve (12) months and the end date of the contract is changed from 06/30/12 to 06/30/13.
3. Amendment 9 extends the current contract for one year beginning on July 1, 2012, utilizing option year one (1) from the previous Amendment 8. It is the Department's intent to competitively procure the Desk Review and Audit Services for the period of 7/1/2013 - 6/30/2014, or longer.
4. The Contractor shall perform up to 41,892 Desk Review and Audit Services hours. In addition to the provisions of the Desk Review and Audit Services as set forth in the original contract as amended, the Contractor shall provide up to 490 hours for the Department of Developmental Services, (DDS). These hours shall be used by the Contractor as directed by DDS. Specific tasks shall include the review and collection of cost reports, updating DDS' Annual report of Residential and Day Services and other mutually agreed upon tasks as needed.



5. The listing of hours set forth in Section 15 on page 3 of Amendment 8 remains unchanged in this Amendment 9, and is as follows:

Key Personnel	Total Annual Hours for Desk Review and Audit Services
Craig J. Lubitski	1900
Kathy L. R. Kabrick	900
Mark J. McKenn	1800

6. During this contract extension period; unless otherwise notified by the Department, the Contractor's designated Department contacts are as follows:
- For issues pertaining to the Contractor's performance of the Desk Review and Audit Services; the filing of reports and/or submission of invoices: Christopher LaVigne, direct line: 860-424-5719, or [christopher.lavigne@ct.gov](mailto:christopher.lavigne@ct.gov).
  - For issues pertaining, to the Contractor's performance of services for DDS: Peter Mason, direct line: 860-418-6077 or [peter.mason@ct.gov](mailto:peter.mason@ct.gov).
  - For issues pertaining to contract terms and conditions: Marcia McDonough at 860-424-5214 or [marcia.mcdonough@ct.gov](mailto:marcia.mcdonough@ct.gov).
7. For services provided during the period July 1, 2012 - June 30, 2013, the Department shall pay the all-inclusive hourly rate of \$91.00 based on the actual numbers of hours worked up to a maximum of 41, 892 hours for the Desk Review and Audit Services and a maximum of 490 hours for DDS services.
8. The Contractor shall, on a monthly basis, submit a single invoice for services rendered during the prior month. Said invoice shall designate the hours utilized during the period for each of the three (3) possible tasks authorized through this contract amendment: Desk Reviews, Audits and DDS services.
9. The Part II, Mandatory Terms and Conditions as set forth in Amendment 4 are deleted and replaced by pages 3 through 27 of this amendment.

This document constitutes an amendment to the above numbered contract. All provisions of that contract, except those explicitly changed above by this amendment, shall remain in full force and effect.



## PART II. TERMS AND CONDITIONS

The Contractor shall comply with the following terms and conditions.

- A. **DEFINITIONS.** Unless otherwise indicated, the following terms shall have the following corresponding definitions:
1. **"Bid"** shall mean a bid submitted in response to a solicitation.
  2. **"Breach"** shall mean a party's failure to perform some contracted-for or agreed-upon act, or his failure to comply with a duty imposed by law which is owed to another or to society.
  3. **"Cancellation"** shall mean an end to the Contract affected pursuant to a right which the Contract creates due to a Breach.
  4. **"Claims"** shall mean all actions, suits, claims, demands, investigations and proceedings of any kind, open, pending or threatened, whether mature, unmatured, contingent, known or unknown, at law or in equity, in any forum.
  5. **"Client"** shall mean a recipient of the Contractor's services.
  6. **"Contract"** shall mean this agreement, as of its effective date, between the Contractor and the State for Services.
  7. **"Contractor Parties"** shall mean a Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract (e.g. subcontractor) and the Contractor intends for such other person or entity to perform under the Contract in any capacity. For the purpose of this contract, vendors of support services, not otherwise known as human service providers or educators, shall not be considered subcontractors, e.g. lawn care, unless such activity is considered part of a training, vocational or educational program.
  8. **"Data"** shall mean all results, technical information and materials developed and/or obtained in the performance of the Services hereunder, including but not limited to all reports, survey and evaluation tools, surveys and evaluations, plans, charts, recordings (video and/or sound), pictures, curricula, electronically prepared presentations, public awareness or prevention campaign materials, drawings, analyses, graphic representations, computer programs and printouts, notes and memoranda, and documents, whether finished or unfinished, which result from or are prepared in connection with the Services performed hereunder.
  9. **"Day"** shall mean all calendar days, other than Saturdays, Sundays and days designated as national or State of Connecticut holidays upon which banks in Connecticut are closed.
  10. **"Expiration"** shall mean an end to the Contract due to the completion in full of the mutual performances of the parties or due to the Contract's term being completed.
  11. **"Force Majeure"** shall mean events that materially affect the Services or the time schedule within which to perform and are outside the control of the party asserting that such an event has occurred, including, but not limited to, labor troubles unrelated to the Contractor, failure of or inadequate permanent power, unavoidable casualties, fire not caused by the Contractor, extraordinary weather conditions, disasters, riots, acts of God, insurrection or war.
  12. **"Records"** shall mean all working papers and such other information and materials as may have been accumulated and/or produced by the Contractor in performing the Contract, including but not

limited to, documents, data, plans, books, computations, drawings, specifications, notes, reports, records, estimates, summaries and correspondence, kept or stored in any form.

13. "Services" shall mean the performance of Services as stated in Part I of this Contract.
14. "State" shall mean the State of Connecticut, including any agency, office, department, board, council, commission, institution or other executive branch agency of State Government.
15. "Termination" shall mean an end to the Contract affected pursuant to a right which the Contract creates, other than for a Breach.

## B. CONTRACTOR OBLIGATIONS.

1. **Credits and Rights in Data.** Unless expressly waived in writing by the Agency, all Records and publications intended for public distribution during or resulting from the performances of this Contract shall include a statement acknowledging the financial support of the State and the Agency and, where applicable, the federal government. All such publications shall be released in conformance with applicable federal and state law and all regulations regarding confidentiality. Any liability arising from such a release by the Contractor shall be the sole responsibility of the Contractor and the Contractor shall indemnify and hold harmless the Agency, unless the Agency or its agents co-authored said publication and said release is done with the prior written approval of the Agency Head. All publications shall contain the following statement: "This publication does not express the views of the [insert Agency name] or the State of Connecticut. The views and opinions expressed are those of the authors." Neither the Contractor nor any of its agents shall copyright Data and information obtained under this Contract, unless expressly previously authorized in writing by the Agency. The Agency shall have the right to publish, duplicate, use and disclose all such Data in any manner, and may authorize others to do so. The Agency may copyright any Data without prior Notice to the Contractor. The Contractor does not assume any responsibility for the use, publication or disclosure solely by the Agency of such Data.
2. **Organizational Information, Conflict of Interest, IRS Form 990.** During the term of this Contract and for the one hundred eighty (180) days following its date of Termination and/or Cancellation, the Contractor shall upon the Agency's request provide copies of the following documents within ten (10) Days after receipt of the request:
  - (a) its most recent IRS Form 990 submitted to the Internal Revenue Service, and
  - (b) its most recent Annual Report filed with the Connecticut Secretary of the State's Office or such other information that the Agency deems appropriate with respect to the organization and affiliation of the Contractor and related entities.

This provision shall continue to be binding upon the Contractor for one hundred and eighty (180) Days following the termination or cancellation of the Contract.

3. **Federal Funds.**
  - (a) The Contractor shall comply with requirements relating to the receipt or use of federal funds. The Agency shall specify all such requirements in Part I of this Contract.
  - (b) The Contractor acknowledges that the Agency has established a policy, as mandated by section 6032 of the Deficit Reduction Act (DRA) of 2005, P.L. 109-171, that provides detailed information about the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and other laws supporting the detection and prevention of fraud and abuse.
    - (1) Contractor acknowledges that is has received a copy of said policy and shall comply with its terms, as amended, and with all applicable state and federal laws, regulations



and rules. Contractor shall provide said policy to subcontractors and shall require compliance with the terms of the policy. Failure to abide by the terms of the policy, as determined by the Agency, shall constitute a Breach of this Contract and may result in termination of this Contract.

- (c) This section applies if, under this Contract, the Contractor or Contractor Parties furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the Agency.
- (d) Contractor represents that it is not excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs.
- (e) Contractor shall not, for purposes of performing the Contract with the Agency, knowingly employ or contract with, with or without compensation: (A) any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs; or (B) any person or entity who is excluded from contracting with the State of Connecticut or the federal government (as reflected in the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Department of Health and Human Services, Office of Inspector General (HHS/OIG) Excluded Parties list and the Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons List). Contractor shall immediately notify the Agency should it become subject to an investigation or inquiry involving items or services reimbursable under a federal health care program or be listed as ineligible for participation in or to perform services in connection with such program. The Agency may terminate this Contract immediately if at any point the Contractor, subcontractor or any of their employees are sanctioned, suspended, excluded from or otherwise become ineligible to participate in federal health care programs.

#### 4. Audit Requirements.

- (a) The State Auditors of Public Accounts shall have access to all Records for the fiscal year(s) in which the award was made. The Contractor shall provide for an annual financial audit acceptable to the Agency for any expenditure of state-awarded funds made by the Contractor. Such audit shall include management letters and audit recommendations. The Contractor shall comply with federal and state single audit standards as applicable.
- (b) The Contractor shall make all of its and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State, including, but not limited to, the Agency, the Connecticut Auditors of Public Accounts, Attorney General and State's Attorney and their respective agents. Requests for any audit or inspection shall be in writing, at least ten (10) days prior to the requested date. All audits and inspections shall be at the requester's expense. The State may request an audit or inspection at any time during the Contract term and for three (3) years after Termination, Cancellation or Expiration of the Contract. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- (c) For purposes of this subsection as it relates to State grants, the word "Contractor" shall be read to mean "nonstate entity," as that term is defined in C.G.S. § 4-230.

5. **Related Party Transactions.** The Contractor shall report all related party transactions, as defined in this section, to the Agency on an annual basis in the appropriate fiscal report as specified in Part I of this Contract. "Related party" means a person or organization related through marriage, ability to control, ownership, family or business association. Past exercise of influence or control need not be shown, only the potential or ability to directly or indirectly exercise influence or control. "Related

party transactions" between a Contractor or Contractor Party and a related party include, but are not limited to:

- (a) real estate sales or leases;
- (b) leases for equipment, vehicles or household furnishings;
- (c) mortgages, loans and working capital loans; and
- (d) contracts for management, consultant and professional services as well as for materials, supplies and other services purchased by the Contractor or Contractor Party.

6. **Suspension or Debarment.** In addition to the representations and requirements set forth in Section C.4:

- (a) The Contractor certifies for itself and Contractor Parties involved in the administration of federal or state funds that they:
  - (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any governmental agency (federal, state or local);
  - (2) within a three year period preceding the effective date of this Contract, have not been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; for violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
  - (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the above offenses; (4) have not within a three year period preceding the effective date of this Contract had one or more public transactions terminated for cause or fault.
- (b) Any change in the above status shall be immediately reported to the Agency.

7. **Subcontracts.** Each Contractor Party's identity, services to be rendered and costs shall be detailed in Part I of this Contract. Absent compliance with this requirement, no Contractor Party may be used or expense paid under this Contract unless expressly otherwise provided in Part I of this Contract. No Contractor Party shall acquire any direct right of payment from the Agency by virtue of this section or any other section of this Contract. The use of Contractor Parties shall not relieve the Contractor of any responsibility or liability under this Contract. The Contractor shall make available copies of all subcontracts to the Agency upon request.

8. **Independent Capacity of Contractor.** The Contractor and Contractor Parties shall act in an independent capacity and not as officers or employees of the state of Connecticut or of the Agency.

9. **Indemnification.**

- (a) The Contractor shall indemnify, defend and hold harmless the state of Connecticut and its officers, representatives, agents, servants, employees, successors and assigns from and against any and all:
  - (1) claims arising directly or indirectly, in connection with the Contract, including the acts of commission or omission (collectively the "Acts") of the Contractor or Contractor Parties; and



- (2) liabilities, damages, losses, costs and expenses, including but not limited to attorneys' and other professionals' fees, arising, directly or indirectly, in connection with Claims, Acts or the Contract. The Contractor shall use counsel reasonably acceptable to the State in carrying out its indemnification and hold-harmless obligations under this Contract. The Contractor's obligations under this section to indemnify, defend and hold harmless against claims includes claims concerning confidentiality of any part of or all of the bid or any records, and intellectual property rights, other propriety rights of any person or entity, copyrighted or uncopyrighted compositions, secret processes, patented or unpatented inventions, articles or appliances furnished or used in the performance of the Contract.
  - (b) The Contractor shall reimburse the State for any and all damages to the real or personal property of the State caused by the Acts of the Contractor or any Contractor Parties. The State shall give the Contractor reasonable notice of any such claims.
  - (c) The Contractor's duties under this section shall remain fully in effect and binding in accordance with the terms and conditions of the Contract, without being lessened or compromised in any way, even where the Contractor is alleged or is found to have merely contributed in part to the Acts giving rise to the claims and/or where the State is alleged or is found to have contributed to the Acts giving rise to the claims.
  - (d) The Contractor shall carry and maintain at all times during the term of the Contract, and during the time that any sections survive the term of the Contract, sufficient general liability insurance to satisfy its obligations under this Contract. The Contractor shall name the State as an additional insured on the policy and shall provide a copy of the policy to the Agency prior to the effective date of the Contract. The Contractor shall not begin performance until the delivery of the policy to the Agency.
  - (e) The rights provided in this section for the benefit of the State shall encompass the recovery of attorneys' and other professionals' fees expended in pursuing a claim against a third party.
  - (f) This section shall survive the Termination, Cancellation or Expiration of the Contract, and shall not be limited by reason of any insurance coverage.
10. **Insurance.** Before commencing performance, the Agency may require the Contractor to obtain and maintain specified insurance coverage. In the absence of specific Agency requirements, the Contractor shall obtain and maintain the following insurance coverage at its own cost and expense for the duration of the Contract:
- (a) **Commercial General Liability.** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall include, Premises and Operations, Independent Contractors, Products and Completed Operations, Contractual Liability, and Broad Form Property Damage coverage. If a general aggregate is used, the general aggregate limit shall apply separately to the services to be performed under this Contract or the general aggregate limit shall be twice the occurrence limit;
  - (b) **Automobile Liability.** \$1,000,000 combined single limit per accident for bodily injury. Coverage extends to owned, hired and non-owned automobiles. If the vendor/contractor does not own an automobile, but one is used in the execution of this Contract, then only hired and non-owned coverage is required. If a vehicle is not used in the execution of this Contract then automobile coverage is not required.
  - (c) **Professional Liability.** \$1,000,000 limit of liability, if applicable; and/or



- (d) Workers' Compensation and Employers Liability. Statutory coverage in compliance with the Compensation laws of the State of Connecticut. Coverage shall include Employer's Liability with minimum limits of \$100,000 each accident, \$500,000 Disease – Policy limit, \$100,000 each employee.

**11. Choice of Law/Choice of Forum, Settlement of Disputes, Claims Against the State.**

- (a) The Contract shall be deemed to have been made in the City of Hartford, State of Connecticut. Both Parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of laws. To the extent that any immunities provided by federal law or the laws of the State of Connecticut do not bar an action against the State, and to the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in the United States District Court for the District of Connecticut only; and shall not be transferred to any other court, provided, however, that nothing here constitutes a waiver or compromise of the sovereign immunity of the State of Connecticut. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.
- (b) Any dispute concerning the interpretation or application of this Contract shall be decided by the Agency Head or his/her designee whose decision shall be final, subject to any rights the Contractor may have pursuant to state law. In appealing a dispute to the Agency Head pursuant to this section, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final resolution of a dispute, the Contractor and the Agency shall proceed diligently with the performance of the Contract.
- (c) The Contractor agrees that the sole and exclusive means for the presentation of any claim against the State arising from this Contract shall be in accordance with Title 4, Chapter 53 of the Connecticut General Statutes (Claims Against the State) and the Contractor further agrees not to initiate legal proceedings, except as authorized by that Chapter, in any state or federal court in addition to or in lieu of said Chapter 53 proceedings.

**12. Compliance with Law and Policy, Facility Standards and Licensing.** Contractor shall comply with all:

- (a) pertinent local, state and federal laws and regulations as well as Agency policies and procedures applicable to contractor's programs as specified in this Contract. The Agency shall notify the Contractor of any applicable new or revised laws, regulations, policies or procedures which the Agency has responsibility to promulgate or enforce; and
- (b) applicable local, state and federal licensing, zoning, building, health, fire and safety regulations or ordinances, as well as standards and criteria of pertinent state and federal authorities. Unless otherwise provided by law, the Contractor is not relieved of compliance while formally contesting the authority to require such standards, regulations, statutes, ordinance or criteria.

**13. Representations and Warranties.** Contractor shall:

- (a) perform fully under the Contract;
- (b) pay for and/or secure all permits, licenses and fees and give all required or appropriate notices with respect to the provision of Services as described in Part I of this Contract; and
- (c) adhere to all contractual sections ensuring the confidentiality of all Records that the Contractor has access to and are exempt from disclosure under the State's Freedom of Information Act or other applicable law.

14. **Reports.** The Contractor shall provide the Agency with such statistical, financial and programmatic information necessary to monitor and evaluate compliance with the Contract. All requests for such information shall comply with all applicable state and federal confidentiality laws. The Contractor shall provide the Agency with such reports as the Agency requests as required by this Contract.
15. **Delinquent Reports.** The Contractor shall submit required reports by the designated due dates as identified in this Contract. After notice to the Contractor and an opportunity for a meeting with an Agency representative, the Agency reserves the right to withhold payments for services performed under this Contract if the Agency has not received acceptable progress reports, expenditure reports, refunds, and/or audits as required by this Contract or previous contracts for similar or equivalent services the Contractor has entered into with the Agency. This section shall survive any Termination of the Contract or the Expiration of its term.
16. **Record Keeping and Access.** The Contractor shall maintain books, Records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Contract. These Records shall be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of the State or, where applicable, federal agencies. The Contractor shall retain all such Records concerning this Contract for a period of three (3) years after the completion and submission to the State of the Contractor's annual financial audit.
17. **Protection of Personal Information.**
  - (a) Contractor and Contractor Parties, at their own expense, have a duty to and shall protect from a Personal Information Breach any and all Personal Information which they come to possess or control, wherever and however stored or maintained, in a commercially reasonable manner in accordance with current industry standards.  
<http://www.ct.gov/doit/cwp/view.asp?a=1245&q=253968>  
<http://www.ct.gov/doit/cwp/view.asp?a=1245&q=253968>
  - (b) Each Contractor or Contractor Party shall implement and maintain a comprehensive data security program for the protection of Personal Information. The safeguards contained in such program shall be consistent with and comply with the safeguards for protection of Personal Information, and information of a similar character, as set forth in all applicable federal and state law and written policy of the Department or State concerning the confidentiality of Personal Information. Such data-security program shall include, but not be limited to, the following:
    - (1) A security policy for employees related to the storage, access and transportation of data containing Personal Information;
    - (2) Reasonable restrictions on access to records containing Personal Information, including access to any locked storage where such records are kept;
    - (3) A process for reviewing policies and security measures at least annually;
    - (4) Creating secure access controls to Personal Information, including but not limited to passwords; and
    - (5) Encrypting of Personal Information that is stored on laptops, portable devices or being transmitted electronically.
  - (c) The Contractor and Contractor Parties shall notify the Department and the Connecticut Office of the Attorney General as soon as practical, but no later than twenty-four (24) hours, after they become aware of or suspect that any Personal Information which Contractor or Contractor Parties possess or control has been subject to a Personal Information Breach. If a Personal Information Breach has occurred, the Contractor shall, within three (3) business days after the notification, present a credit monitoring and protection plan to the Commissioner of Administrative Services, the Department and the Connecticut Office of



the Attorney General, for review and approval. Such credit monitoring or protection plan shall be made available by the Contractor at its own cost and expense to all individuals affected by the Personal Information Breach. Such credit monitoring or protection plan shall include, but is not limited to reimbursement for the cost of placing and lifting one (1) security freeze per credit file pursuant to Connecticut General Statutes § 36a-701a. Such credit monitoring or protection plans shall be approved by the State in accordance with this Section and shall cover a length of time commensurate with the circumstances of the Personal Information Breach. The Contractors' costs and expenses for the credit monitoring and protection plan shall not be recoverable from the Department, any State of Connecticut entity or any affected individuals.

- (d) The Contractor shall incorporate the requirements of this Section in all subcontracts requiring each Contractor Party to safeguard Personal Information in the same manner as provided for in this Section.
- (e) Nothing in this Section shall supersede in any manner Contractor's or Contractor Party's obligations pursuant to HIPAA or the provisions of this Contract concerning the obligations of the Contractor as a Business Associate of the Department.

19. **Workforce Analysis.** The Contractor shall provide a workforce Analysis Affirmative Action report related to employment practices and procedures.

20. **Litigation.**

- (a) The Contractor shall require that all Contractor Parties, as appropriate, disclose to the Contractor, to the best of their knowledge, any Claims involving the Contractor Parties that might reasonably be expected to materially adversely affect their businesses, operations, assets, properties, financial stability, business prospects or ability to perform fully under the Contract, no later than ten (10) days after becoming aware or after they should have become aware of any such Claims. Disclosure shall be in writing.
- (b) The Contractor shall provide written Notice to the Agency of any final decision by any tribunal or state or federal agency or court which is adverse to the Contractor or which results in a settlement, compromise or claim or agreement of any kind for any action or proceeding brought against the Contractor or its employee or agent under the Americans with Disabilities Act of 1990 as revised or amended from time to time, Executive Orders Nos. 3 & 17 of Governor Thomas J. Meskill and any other requirements of federal or state law concerning equal employment opportunities or nondiscriminatory practices.

21. **Sovereign Immunity.** The Contractor and Contractor Parties acknowledge and agree that nothing in the Contract, or the solicitation leading up to the Contract, shall be construed as a modification, compromise or waiver by the State of any rights or defenses of any immunities provided by Federal law or the laws of the State of Connecticut to the State or any of its officers and employees, which they may have had, now have or will have with respect to all matters arising out of the Contract. To the extent that this Section conflicts with any other Section, this Section shall govern.

#### D. **CHANGES TO THE CONTRACT, TERMINATION, CANCELLATION, AND EXPIRATION.**

##### 1. **Contract Amendment.**

- (a) No amendment to or modification or other alteration of this Contract shall be valid or binding upon the parties unless made in writing, signed by the parties and, if applicable, approved by the Connecticut Attorney General.
- (b) The Agency may amend this Contract to reduce the contracted amount of compensation if:

- (1) the total amount budgeted by the State for the operation of the Agency or Services provided under the program is reduced or made unavailable in any way; or
- (2) federal funding reduction results in reallocation of funds within the Agency.
- (c) If the Agency decides to reduce the compensation, the Agency shall send written Notice to the Contractor. Within twenty (20) Days of the Contractor's receipt of the Notice, the Contractor and the Agency shall negotiate the implementation of the reduction of compensation unless the parties mutually agree that such negotiations would be futile. If the parties fail to negotiate an implementation schedule, then the Agency may terminate the Contract effective no earlier than sixty (60) Days from the date that the Contractor receives written notification of Termination and the date that work under this Contract shall cease.

## 2. Contractor Changes and Assignment.

- (a) The Contractor shall notify the Agency in writing:
  - (1) at least ninety (90) days prior to the effective date of any fundamental changes in the Contractor's corporate status, including merger, acquisition, transfer of assets, and any change in fiduciary responsibility;
  - (2) no later than ten (10) days from the effective date of any change in:
    - (A) its certificate of incorporation or other organizational document;
    - (B) more than a controlling interest in the ownership of the Contractor; or
    - (C) the individual(s) in charge of the performance.
- (b) No such change shall relieve the Contractor of any responsibility for the accuracy and completeness of the performance. The Agency, after receiving written Notice from the Contractor of any such change, may require such contracts, releases and other instruments evidencing, to the Agency's satisfaction, that any individuals retiring or otherwise separating from the Contractor have been compensated in full or that allowance has been made for compensation in full, for all work performed under terms of the Contract. The Contractor shall deliver such documents to the Agency in accordance with the terms of the Agency's written request. The Agency may also require, and the Contractor shall deliver, a financial statement showing that solvency of the Contractor is maintained. The death of any Contractor Party, as applicable, shall not release the Contractor from the obligation to perform under the Contract; the surviving Contractor Parties, as appropriate, must continue to perform under the Contract until performance is fully completed.
- (c) Assignment. The Contractor shall not assign any of its rights or obligations under the Contract, voluntarily or otherwise, in any manner without the prior written consent of the Agency.
  - (1) The Contractor shall comply with requests for documentation deemed to be appropriate by the Agency in considering whether to consent to such assignment.
  - (2) The Agency shall notify the Contractor of its decision no later than forty-five (45) Days from the date the Agency receives all requested documentation.
  - (3) The Agency may void any assignment made without the Agency's consent and deem such assignment to be in violation of this Section and to be in Breach of the Contract. Any cancellation of this Contract by the Agency for a Breach shall be without



prejudice to the Agency's or the State's rights or possible claims against the Contractor.

3. Breach.

- (a) If either party Breaches this Contract in any respect, the non-breaching party shall provide written notice of the Breach to the breaching party and afford the breaching party an opportunity to cure within ten (10) Days from the date that the breaching party receives the notice. In the case of a Contractor Breach, the Agency may modify the ten (10) day cure period in the notice of Breach. The right to cure period shall be extended if the non-breaching party is satisfied that the breaching party is making a good faith effort to cure, but the nature of the Breach is such that it cannot be cured within the right to cure period. The Notice may include an effective Contract Termination date if the Breach is not cured by the stated date and, unless otherwise modified by the non-breaching party in writing prior to the Termination date, no further action shall be required of any party to effect the Termination as of the stated date. If the notice does not set forth an effective Contract Termination date, then the non-breaching party may terminate the Contract by giving the breaching party no less than twenty four (24) hours' prior written Notice after the expiration of the cure period.
- (b) If the Agency believes that the Contractor has not performed according to the Contract, the Agency may:
  - (1) withhold payment in whole or in part pending resolution of the performance issue, provided that the Agency notifies the Contractor in writing prior to the date that the payment would have been due in accordance with the budget;
  - (2) temporarily discontinue all or part of the Services to be provided under the Contract;
  - (3) permanently discontinue part of the Services to be provided under the Contract;
  - (4) assign appropriate State personnel to provide contracted for Services to assure continued performance under the Contract until such time as the contractual Breach has been corrected to the satisfaction of the Agency;
  - (5) require that contract funding be used to enter into a subcontract with a person or persons designated by the Agency in order to bring the program into contractual compliance;
  - (6) take such other actions of any nature whatsoever as may be deemed appropriate for the best interests of the State or the program(s) provided under this Contract or both; or
  - (7) any combination of the above actions.
- (c) The Contractor shall return all unexpended funds to the Agency no later than thirty (30) calendar days after the Contractor receives a demand from the Agency.
- (d) In addition to the rights and remedies granted to the Agency by this Contract, the Agency shall have all other rights and remedies granted to it by law in the event of Breach of or default by the Contractor under the terms of this Contract.
- (e) The action of the Agency shall be considered final. If at any step in this process the Contractor fails to comply with the procedure and, as applicable, the mutually agreed plan of correction, the Agency may proceed with Breach remedies as listed under this section.

4. **Non-enforcement Not to Constitute Waiver.** No waiver of any Breach of the Contract shall be interpreted or deemed to be a waiver of any other or subsequent Breach. All remedies afforded in the Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided in the Contract or at law or in equity. A party's failure to insist on strict performance of any section of the Contract shall only be deemed to be a waiver of rights and remedies concerning that specific instance of performance and shall not be deemed to be a waiver of any subsequent rights, remedies or Breach.
5. **Suspension.** If the Agency determines in its sole discretion that the health and welfare of the clients or public safety is being adversely affected, the Agency may immediately suspend in whole or in part the Contract without prior notice and take any action that it deems to be necessary or appropriate for the benefit of the clients. The Agency shall notify the Contractor of the specific reasons for taking such action in writing within five (5) Days of immediate suspension. Within five (5) Days of receipt of this notice, the Contractor may request in writing a meeting with the Agency Head or designee. Any such meeting shall be held within five (5) Days of the written request, or such later time as is mutually agreeable to the parties. At the meeting, the Contractor shall be given an opportunity to present information on why the Agency's actions should be reversed or modified. Within five (5) Days of such meeting, the Agency shall notify the Contractor in writing of his/her decision upholding, reversing or modifying the action of the Agency head or designee. This action of the Agency head or designee shall be considered final.
6. **Ending the Contractual Relationship.**
  - (a) This Contract shall remain in full force and effect for the duration of its entire term or until such time as it is terminated earlier by either party. Either party may terminate this contract by providing at least sixty (60) days prior written notice pursuant to the Notice requirements of this Contract.
  - (b) The Agency may immediately terminate the Contract in whole or in part whenever the Agency makes a determination that such termination is in the best interest of the State. Notwithstanding Section D.2, the Agency may immediately terminate or cancel this Contract in the event that the Contractor or any subcontractors becomes financially unstable to the point of threatening its ability to conduct the services required under this Contract, ceases to conduct business in the normal course, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or its assets.
  - (c) The Agency shall notify the Contractor in writing of Termination pursuant to subsection (b) above, which shall specify the effective date of termination and the extent to which the Contractor must complete or immediately cease performance. Such Notice of Termination shall be sent in accordance with the Notice provision contained on page 1 of this Contract. Upon receiving the Notice from the Agency, the Contractor shall immediately discontinue all Services affected in accordance with the Notice, undertake all reasonable and necessary efforts to mitigate any losses or damages, and deliver to the Agency all Records as defined in Section A.12, unless otherwise instructed by the Agency in writing, and take all actions that are necessary or appropriate, or that the Agency may reasonably direct, for the protection of Clients and preservation of any and all property. Such Records are deemed to be the property of the Agency and the Contractor shall deliver them to the Agency no later than thirty (30) days after the Termination of the Contract or fifteen (15) days after the Contractor receives a written request from the Agency for the specified records whichever is less. The Contractor shall deliver those Records that exist in electronic, magnetic or other intangible form in a non-proprietary format, such as, but not limited to ASCII or .TXT.
  - (d) The Agency may terminate the Contract at any time without prior notice when the funding for the Contract is no longer available.



- (e) The Contractor shall deliver to the Agency any deposits, prior payment, advance payment or down payment if the Contract is terminated by either party within thirty (30) days after receiving demand from the Agency. The Contractor shall return to the Agency any funds not expended in accordance with the terms and conditions of the Contract and, if the Contractor fails to do so upon demand, the Agency may recoup said funds from any future payments owing under this Contract or any other contract between the State and the Contractor. Allowable costs, as detailed in audit findings, incurred until the date of termination for operation or transition of program(s) under this Contract shall not be subject to recoupment.

**7. Transition after Termination or Expiration of Contract.**

- (a) If this Contract is terminated for any reason or it expires in accordance with its term, the Contractor shall do and perform all things which the Agency determines to be necessary or appropriate to assist in the orderly transfer of Clients served under this Contract and shall assist in the orderly cessation of Services it performs under this Contract. In order to complete such transfer and wind down the performance, and only to the extent necessary or appropriate, if such activities are expected to take place beyond the stated end of the Contract term then the Contract shall be deemed to have been automatically extended by the mutual consent of the parties prior to its expiration without any affirmative act of either party, including executing an amendment to the Contract to extend the term, but only until the transfer and winding down are complete.
- (b) If this Contract is terminated, cancelled or not renewed, the Contractor shall return to the Agency any equipment, deposits or down payments made or purchased with start-up funds or other funds specifically designated for such purpose under this Contract in accordance with the written instructions from the Agency in accordance with the Notice provision of this Contract. Written instructions shall include, but not be limited to, a description of the equipment to be returned, where the equipment shall be returned to and who is responsible to pay for the delivery/shipping costs. Unless the Agency specifies a shorter time frame in the letter of instructions, the Contractor shall affect the returns to the Agency no later than sixty (60) days from the date that the Contractor receives Notice.

**E. STATUTORY AND REGULATORY COMPLIANCE.**

**1. Health Insurance Portability and Accountability Act of 1996.**

- (a) If the Contractor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract ("Agency") is a "covered entity" as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Agency, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103; and

- (e) The Contractor is a "business associate" of the Agency, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Agency agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH Act"), (Pub. L. 111-5, §§ 13400 to 13423)<sup>1</sup>, and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
  - (1) "Breach" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1)).
  - (2) "Business Associate" shall mean the Contractor.
  - (3) "Covered Entity" shall mean the Agency of the State of Connecticut named on page 1 of this Contract.
  - (4) "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
  - (5) "Electronic Health Record" shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5)).
  - (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
  - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
  - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
  - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
  - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
  - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
  - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
  - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.

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<sup>1</sup> The effective date of the HITECH Act is February 17, 2010.



- (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subpart A and C.
  - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH Act (42 U.S.C. §17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
  - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
  - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
  - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.
  - (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
  - (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
  - (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
  - (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
  - (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
  - (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.

- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with subsection (h)(10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. §§ 164.504(e), 164.308, 164.310, 164.312, and 164.316.
- (14) In the event that an individual requests that the Business Associate
  - (A) restrict disclosures of PHI;
  - (B) provide an accounting of disclosures of the individual's PHI; or
  - (C) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without
  - (A) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and
  - (B) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act, (42 U.S.C. § 17935(d)(2)) and in any accompanying regulations
- (16) Obligations in the Event of a Breach.
  - (A) The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b)) and this Section of the Contract.
  - (B) Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402(g) of HITECH (42 U.S.C. 17932(g)). A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is



reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.

(C) The Business Associate agrees to include in the notification to the Covered Entity at least the following information:

1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

(D) Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.

(E) Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.

(i) Permitted Uses and Disclosure by Business Associate.

- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- (2) Specific Use and Disclosure Provisions

- (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
  - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
  - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.
- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
  - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
  - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.
- (l) Term and Termination.
- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with provision (h)(10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
  - (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:



- (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
  - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (3) Effect of Termination.
- (A) Except as provided in (1)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with section (h)(10) of this Section of the Contract to the Covered Entity within ten business days of the notice of termination. This section shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
  - (B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Sections.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.

- (6) **Disclaimer.** Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the sections of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.
  - (7) **Indemnification.** The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.
2. **Americans with Disabilities Act.** The Contractor shall be and remain in compliance with the Americans with Disabilities Act of 1990 (<http://www.ada.gov/>) as amended from time to time ("Act") to the extent applicable, during the term of the Contract. The Agency may cancel this Contract if the Contractor fails to comply with the Act. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the law. The Contractor warrants that it shall hold the State harmless from any liability which may be imposed upon the state as a result of any failure of the Contractor to be in compliance with this Act. As applicable, the Contractor shall comply with section 504 of the Federal Rehabilitation Act of 1973, as amended from time to time, 29 U.S.C. § 794 (Supp. 1993), regarding access to programs and facilities by people with disabilities.
3. **Utilization of Minority Business Enterprises.** The Contractor shall perform under this contract in accordance with 45 C.F.R. Part 74; and, as applicable, C.G.S. §§ 4a-60 to 4a-60a and 4a-60g to carry out this policy in the award of any subcontracts.
4. **Priority Hiring.** Subject to the Contractor's exclusive right to determine the qualifications for all employment positions, the Contractor shall give priority to hiring welfare recipients who are subject to time-limited welfare and must find employment. The Contractor and the Agency shall work cooperatively to determine the number and types of positions to which this Section shall apply.
5. **Non-discrimination.**
  - (a) For purposes of this Section, the following terms are defined as follows:
    - (1) "Commission" means the Commission on Human Rights and Opportunities;
    - (2) "Contract" and "contract" include any extension or modification of the Contract or contract;
    - (3) "Contractor" and "contractor" include any successors or assigns of the Contractor or contractor;
    - (4) "Gender identity or expression" means a person's gender-related identity, appearance or behavior, whether or not that gender-related identity, appearance or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, which gender-related identity can be shown by providing evidence including, but not limited to, medical history, care or treatment of the



- gender-related identity, consistent and uniform assertion of the gender-related identity or any other evidence that the gender-related identity is sincerely held, part of a person's core identity or not being asserted for an improper purpose.
- (5) "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations;
  - (6) "good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements;
  - (7) "marital status" means being single, married as recognized by the State of Connecticut, widowed, separated or divorced;
  - (8) "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders;
  - (9) "minority business enterprise" means any small contractor or supplier of materials fifty-one percent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise, and (3) who are members of a minority, as such term is defined in subsection (a) of Connecticut General Statutes § 32-9n; and
  - (10) "public works contract" means any agreement between any individual, firm or corporation and the State or any political subdivision of the State other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the State, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

For purposes of this Section, the terms "Contract" and "contract" do not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

(b)

- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the State of Connecticut; and the Contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by the Contractor that such disability prevents performance of the work involved;
- (2) the Contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the Commission;

- (3) the Contractor agrees to provide each labor union or representative of workers with which the Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which the Contractor has a contract or understanding, a notice to be provided by the Commission, advising the labor union or workers' representative of the Contractor's commitments under this section and to post copies of the notice in conspicuous places available to employees and applicants for employment;
  - (4) the Contractor agrees to comply with each provision of this Section and Connecticut General Statutes §§ 46a-68e and 46a-68f and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes §§ 46a-56, 46a-68e and 46a-68f; and
  - (5) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor as relate to the provisions of this Section and Connecticut General Statutes § 46a-56. If the contract is a public works contract, the Contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works projects.
- (c) Determination of the Contractor's good faith efforts shall include, but shall not be limited to, the following factors: The Contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the Commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (d) The Contractor shall develop and maintain adequate documentation, in a manner prescribed by the Commission, of its good faith efforts.
- (e) The Contractor shall include the provisions of subsection (b) of this Section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes §46a-56; provided if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.
- (f) The Contractor agrees to comply with the regulations referred to in this Section as they exist on the date of this Contract and as they may be adopted or amended from time to time during the term of this Contract and any amendments thereto.
- (g)
- (1) The Contractor agrees and warrants that in the performance of the Contract such Contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or the State of Connecticut, and that employees are treated when employed without regard to their sexual orientation;
  - (2) the Contractor agrees to provide each labor union or representative of workers with which such Contractor has a collective bargaining Agreement or other contract or understanding and each vendor with which such Contractor has a contract or



understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the Contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment;

- (3) the Contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said Commission pursuant to Connecticut General Statutes § 46a-56; and
- (4) the Contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the Commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the Contractor which relate to the provisions of this Section and Connecticut General Statutes § 46a-56.

- (h) The Contractor shall include the provisions of the foregoing paragraph in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the State and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the Commission. The Contractor shall take such action with respect to any such subcontract or purchase order as the Commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Connecticut General Statutes § 46a-56; provided, if such Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Commission, the Contractor may request the State of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the State and the State may so enter.

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#### 6. Freedom of Information.

- (a) Contractor acknowledges that the Agency must comply with the Freedom of Information Act, C.G.S. §§ 1-200 *et seq.* ("FOIA") which requires the disclosure of documents in the possession of the State upon request of any citizen, unless the content of the document falls within certain categories of exemption, as defined by C.G.S. § 1-210(b).
- (b) Governmental Function. In accordance with C.G.S. § 1-218, if the amount of this Contract exceeds two million five hundred thousand dollars (\$2,500,000), and the Contractor is a "person" performing a "governmental function", as those terms are defined in C.G.S. §§ 1-200(4) and (11), the Agency is entitled to receive a copy of the Records and files related to the Contractor's performance of the governmental function, which may be disclosed by the Agency pursuant to the FOIA.

- 7. **Whistleblowing.** This Contract is subject to C.G.S. § 4-61dd if the amount of this Contract is a "large state contract" as that term is defined in C.G.S. § 4-61dd(h). In accordance with this statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the Contracting state or quasi-public agency or the Auditors of Public Accounts or the Attorney General under subsection (a) of such statute, the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty per cent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The State may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state Contractor, as defined in the statute, shall post a notice of the relevant sections of the statute relating to large state Contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

8. **Executive Orders.** This Contract is subject to Executive Order No. 3 of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices; Executive Order No. 17 of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings; Executive Order No. 16 of Governor John G. Rowland, promulgated August 4, 1999, concerning violence in the workplace. This Contract may also be subject to Executive Order 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions. All of these Executive orders are incorporated into and made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Agency shall provide a copy of these Orders to the Contractor.
9. **Campaign Contribution Restrictions.** For all State contracts as defined in C.G.S. § 9-612(g) the authorized signatory to this Contract expressly acknowledges receipt of the State Elections Enforcement Commission's ("SEEC") notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See SEEC Form 11 reproduced below: [www.ct.gov/seec](http://www.ct.gov/seec)



## Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (italicized words are defined on the reverse side of this page).

### CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall knowingly *solicit* contributions from the state contractor's or prospective state contractor's employees or from a subcontractor or principals of the subcontractor on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

### DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

### PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

**Civil penalties**—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

**Criminal penalties**—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

### CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/secr](http://www.ct.gov/secr). Click on the link to "Lobbyist/Contractor Limitations."



## CONNECTICUT STATE ELECTIONS ENFORCEMENT COMMISSION

Rev. 1/11

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## DEFINITIONS

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 43-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes, (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office, or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

"Subcontractor" means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty-first of the year in which the subcontract terminates. "Subcontractor" does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a subcontractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.



## SIGNATURES AND APPROVALS

043-MED-1QH-01 / 01DSS1201QH A1

The Contractor IS a Business Associate under the Health Insurance Portability and Accountability Act of 1996 as amended.

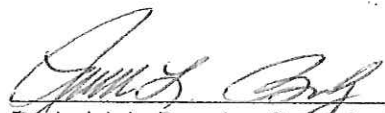
Documentation necessary to demonstrate the authorization to sign must be attached.

CONTRACTOR - CRAIG J. LUBITSKI CONSULTING, LLC

  
\_\_\_\_\_  
Craig J. Lubitski, Consultant

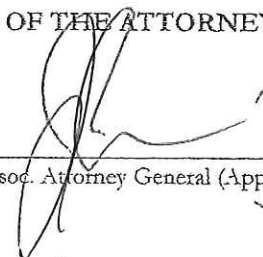
5-23-12  
Date

DEPARTMENT OF SOCIAL SERVICES

  
\_\_\_\_\_  
Roderick L. Bremby, Commissioner

5/29/2012  
Date

OFFICE OF THE ATTORNEY GENERAL

  
\_\_\_\_\_  
ASST. / Assoc. Attorney General (Approved as to form & legal sufficiency)  
Joseph Rubin

6, 1, 12  
Date



# Craig J. Lubitski Consulting LLC

## CERTIFIED RESOLUTION

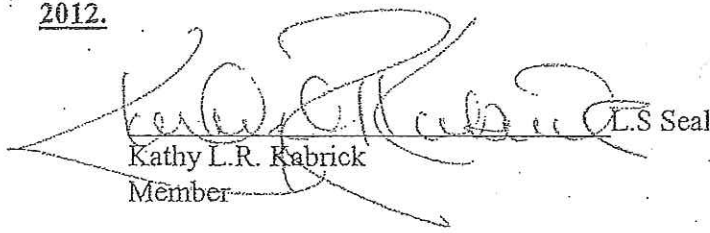
*For Limited Liability Companies (LLCs)*

I, Kathy L.R. Kabrick, a Member of Craig J. Lubitski Consulting LLC, a limited liability company organized and existing under the laws of the State of Connecticut (hereinafter the "Company"), hereby certify:

1. that Craig J. Lubitski Consulting LLC is run by Members
2. that Craig J. Lubitski is a member of Craig J. Lubitski Consulting LLC
3. that as such Craig J. Lubitski is not prohibited from or limited by the articles of organization from binding the LLC.

I do further certify Craig J. Lubitski Consulting LLC does not have a Company Seal and that the above statement has not been in anyway altered, amended or repealed and is now in full force and effect. RESOLVED that Contractor hereby adopts as its policy to support the nondiscrimination agreements and warranties required under Connecticut General Statutes § 4a-60(a)(1) and § 4a-60a(a)(1), as amended in State of Connecticut Public Act 07-245 and sections 9(a)(1) and 10(a)(1) of Public Act 07-142.

IN WITNESS HEREOF, the undersigned has affixed his/her signature this 23<sup>rd</sup> day of May 2012.

  
Kathy L.R. Kabrick  
Member

L.S. Seal

